



**SYLLABUS**

**Class – B.Com VI Sem. (All)**

**Subject – Indirect Taxes**

UNIT – I	Central Excise Duty: Concept, Important definitions: Goods, Excisable Goods, Manufacturer and Classification of goods and principles of classification, Valuation under Central Excise, Ad Valorem Duty and Valuation Rules.
UNIT – II	Custom Duty: Introduction and nature, Types of Custom duty, Prohibition of Import and Export, valuation rules, Computation of assessable value and calculation of custom Duty.
UNIT – III	Central Sales Tax – Introduction and Important definitions, Provisions Relating to Inter State Sale. Determination of Gross sales and Taxable Turnover.
UNIT – IV	M.P. VAT: Introduction, Important definitions, Tax Free Goods, Registration and Licensing of Dealers, Assessment Procedure, Computation of Taxable Turnover and VAT.
UNIT – V	M.P. VAT: Tax payment and recovery of Tax, Input Tax Rebate, and Authorities: Powers and duties. Appeal and Revision. Difficulties in implementation of VAT and Service Tax.



## Unit I

Central Excise Duty is an important source of revenue for Govt. of India. Revenue received from Central Excise about 2 Lac Crores Stands in second rank after Income Tax

### Meaning of Excise Duty

In India, term “Excise Duty” has not been defined, either in the Constitution of India or even in the Central Excise Act, 1944. However, the Constitution of India has vested in the Seventh Schedule, powers to levy various taxes and duties by the Union as well as the states.

Allocation of sources between centre and states under the constitution of India grants to the Central Government power to impose “Duties of excise on tobacco and other goods manufactured or produced in India, except alcoholic liquors for human consumption, opium, narcotics, but including medical and toilet preparations containing alcohol, which is called “Central Excise”.

### Nature or Characteristics of Excise duty

Central Excise duty is a central tax imposed by Government of India. The following features of the excise duty -

1. Imposition
2. Nature
3. Basis of Taxation
4. Payment
5. Scope
6. Maintenance of Records
7. Excise rate
8. Administration

### Importance of Central Excise Duty in Respect of Revenue

Excise Duty is the most important source of income of Indian Govt. The Govt. earns huge revenue through this. This tax is imposed on the manufacturing of goods. It is an indirect tax and collected from manufactures. This tax was first imposed on the manufacturing of cotton yarn in 1894. For the proper implementation of excise duty, Central Excise Duty Act, 1944 and central Excise Tariff Ac, 1985 are applicable which is also known as CEAT. At present this tax is applicable on various types of goods covered under 20 sections and 96 chapters there of and approximately it earns Rs. 2 lac crores per year.

### Merits of Excise Duty or Importance of Excise Duty

1. Major source of Government revenue
2. Psychological advantages to tax payer
3. Easier to collect
4. Balanced Industrial Growth
5. Less collection cost
6. Tax evasion difficult
7. Control over wasteful expenditure

### Disadvantages or demerits of Excise Duty

1. Increase the Price of goods
2. The incidence is uniform
3. Reduces demand of goods
4. Increases project costs



5. Protect inefficient local industries
6. Modern technology becomes costly
7. Increases smuggling/tax evasion

### Types of Excise Duties

#### 1. Central Excise Duty

- a. **Basic Excise Duty** – Basic duty of excise levied under Central Excise Act, Basic excise duty (also termed as Cenvat as per section 2A of CEA) is levied at the rates specified in first schedule to central Excise Tariff Act. The general rate of Excise Duty is 12% and 3% education cess there on So, at present normal excise rate is 12.36%. There is partial exemption to a few products.

#### 2. Provincial Excise Duty

Although Excise duty is imposed by Central Govt. Indian Constitution has given rights to state government to impose and collect excise duty on intoxicants like Liquor, Bhang, Ganja, Opium etc.

#### 3. Duties under other Acts

Some duties and cess are levied on manufactures products under other Acts. The administrative machinery of central excise is used to collect those taxes. Provisions of Central Excise Act and Rules have been made applicable for levy and collection of Central duties cesses. Other duties related to excise duty are as under –

- a. **Education Cess on excise duty** – In case of excise duty, calculation of cess is easy. If excise duty rate is 12% education cess @3% will be 0.36% i.e. 12.36%)
- b. **National Calamity Contingent Duty** – A 'National Calamity Contingent Duty' (NCCD) has been imposed vide section 136 of Finance Act, 2001. This duty is imposed on pan masala, chewing tobacco and cigarettes.
- c. **Additional Excise Duty in pan masala and tobacco products** – Additional Duty of Excise by way of surcharge has been imposed under clause 85 of Finance Bill, 2005 w.e.f. 1-3-2005. Thus duty is payable @ 10% of aggregate of cigars, manufactured tobacco, tobacco extract and essences.
- d. **Duty on Medical and Toilet preparations** – A duty of excise is imposed on medical preparations under Medical and Toilet preparations (Excise Duties) Act, 1955
- e. **Additional duty on mineral products** – Additional duty on mineral imposed (like motor spirit, kerosene, diesel and furnace oil) is payable under Mineral products (Additional Duties of excise and customs) Act, 19

### Brief History of Central Excise Duty

1. Tax on the Production of salt During Mughal Period
2. Indian Salt Act, 1882
3. Excise duty on cotton Yarn
4. Inclusion of various Goods
5. Central Excise Duty Act, 1944

### Main Provisions of Central Excise Act 1944

1. Brief History of Excise Law
2. Levy and collection of Duty
3. Rates of Duty
4. Excise duty based on value
5. Provisions relating of Reflations
  - a. Manufacturer
  - b. Person who Issue CENVAT invoice
  - c. Private warehouse holder
  - d. End-use based exemption user



- e. Exporters
- f. Valuation of Excisable goods
- g. Cenvat credit
- h. administration of Excise Duty
- i. Appeal and Revision
- j. Penalty and Prosecutions

### Basic Conditions of Excise Duty Liability

Section 3 of Central Excise Act the 'charging Section' states that there shall be levied and collected duties on all excisable goods (excluding goods produced or manufactured in special economic zones) which are produced or manufactured in India. This definition of charging section of central Excise is vital, because it clearly signifies that there are four basic conditions for levy of Central Excise duty.

1. The excise duty levied on goods;
2. The goods must be excisable;
3. The goods must be manufactured or produced; and
4. The manufactured or production must be in India.

### Levy and Liability of Excise duty

The words 'Levy' means imposition of tax. Once a tax or duty is imposed, it has to be quantified (assessed) and then 'collected'. Once a duty is levied, it has to be collected. It cannot be collected unless the duty is quantified (assessed). Hence, normally, 'levy' should cover 'imposition', 'assessment' and 'collection'.

### The following point should be kept in view regarding Levy of Excise Duty –

1. Taxable event
2. Person liable to pay excise duty
3. The duty Liability in case of Ware house Goods
4. Duty Liability in case of Job work
5. Duty leviable on captive consumption
6. Duty can be levied on Government undertaking
7. Rate of duty as applicable on date of removal relevant
8. State of goods at the time of removal is relevant
9. Marketability is essential

### Goods

The Excise Duty is levied on manufacturing of goods, but the term goods has not been defined under Central Excise Act 1944 or the Central Excise Rules. However, based on definitions in other enactments as well as judicial pronouncements, certain broad guidelines have evolved in this regard.

Article 366 (12) of the constitution defines goods as "Goods includes all materials, commodities and articles."

Sale of Goods defines "Goods means every kind of movable property other than actionable claims and money, and includes stocks and shares, growing crops, grass and things attached to or forming part of the land which are agreed to be served before sale or under the contract of sales."

- a. Goods must be Movable
- b. Goods must be Marketable



### **Excisable Goods – Sec 2(d)**

Excisable Goods means goods specified in the schedule to the Central excise Tariff Act, 1985, as being subject to a duty excise and includes salt’.

Goods liable to the imposition of excise duty are such items upon which excise is imposed under the legislation. Since 1985, it has been provided under the Act that the excise duty shall now be levied only upon those items which have been covered in the schedule of the Central Excise and Tariff Act, 1985.

1. It should be specified in the tariff schedule
2. Goods not included in CEAT are non excisable goods
3. Mere mention in CEAT not enough
4. Subject to duty
5. Goods manufactured in SEZ are excluded excisable goods
6. Dutiable and non dutiable goods

### **Manufacture – Sec. 2 (f)**

Every action or process is manufacture, which results into the transformation of raw material into a commercial commodity or finished product that a separate identify. However, excise is a tax on manufacture and is not depends on the end use of the manufactured product.

1. New substance having distinct name, character or use must emerge
2. Transformation or Conversion
3. Identify of original Article should be lost
4. Assembling can be manufacture
5. Commercial Known Product
6. What is not Manufacture?

### **Manufacturer**

Section 2(f), which defines the word ‘manufacturer’, after defining the word manufacturer’ states that the word manufacturer shall be understood accordingly and shall include not only a person who employs hired labor in the production or manufacturer of excisable goods, but also person who engages in their production or manufacturer on his own account.” So this definition is not exhaustive.

### **Assessable Value – Sec. 41 (a)**

Section 4(1) (a) of Central Excise Act states that ‘assessable value’ when duty of excise is chargeable on excisable goods with reference to value will be transaction value on each removal of goods, if following conditions are satisfied –

1. The goods should be sold at the time and place of removal
2. Buyer and assessee should not be related

Assessable Value (AV) is the ‘Value’ on which duty is payable as a percentage. Generally by ‘Value”, we understand the price as mentioned in Bill or Invoice.

### **Basis of Assessable Value**

As per section 4 excise duty is payable on basis of transaction value if the goods are sold at the factory gate to an unrelated buyer when price is the sole consideration. If these requirements are not satisfied, valuation will be done as per Valuation Rules.

As per the Central Excise Tariff Act, excise duty is payable on the following basis –

1. Specific Duty,
2. duty based on value (ad valorem duty) i.e. fixed percentage of-
  - a. Tariff value fixed under Section 3(2) of the central Excise Act, 1944
  - b. Transaction value determined under section 4 of the Central Excise Act, 1944
  - c. Retail Sale Price determined under Section 4A of the Central Excise Act, 1944
3. Duty based on production capacity also known as Compound levy scheme.



### **Transaction Value Sec. 4(3) (d)**

Define Transaction Value under section 4 of the Central Excise, 1944. Section 4(3)(d) defines transaction value as the price actually paid or payable for the goods, when sold, and includes in addition to the amount charged as price, any amount that the buyer is liable to pay to, or on behalf of, the assessee, by reason of, or in connection with the sale, whether payable at the time of sale or at any other time, including, but not limited to, any amount charged for, or to make provision for, advertising or publicity, marketing and selling organization expenses, storage, outward handling, servicing, warranty, commission or any other matter, but does not include the amount of duty of excise sales tax and other taxes, if any actually paid or actually payable on such goods.

### **Adjudicating Authority – Sec. 2 (a)**

“Adjudicating authority means any authority competent to pass any order or decision under this act but does not include Central Board of Excise and customs constituted under the Central Boards of Revenue Act, 1963, Commissioner of Central Excise Appeals or Appellate Tribunal.”

### **Curing – Sec. 2 (c)**

“Curing includes writing drying, fermenting and any process for rendering an un-manufactured product fit for marketing or manufacturer.”

All such processes, which are adopted for converting any raw or un-manufactured items into the produced or manufactured form or making them marketable are covered under the jurisdiction of curing.

### **Factory – Sec. 2(e)**

Factory means any premises including the precincts thereof, where in or in any part of which excisable goods other than salt are manufactured or where in any part of which any manufacturing process connected with the production of these goods is being carried or is ordinarily carried on.

### **Sale or Purchase – Sec. 2(h)**

Sale and purchase with their grammatical variations and cognate expressions, means any transfer of the possession of goods by one person to another in the ordinary course of trade or business for cash or deferred payment or other valuable consideration.

### **Central Excise Officer – Sec. 2(b)**

“Central Excise Officer” means the Chief Commissioner of Central Excise, Commissioner of Central Excise, Commissioner of Central Excise (Appeals), Additional Commissioner of Central Excise, Joint Commissioner of Central Excise, Deputy Commissioner of Central Excise, Assistant Commissioner of Central Excise Deputy Commissioner of Central Excise or any other officer of Central Excise Department, or any person (including an officer of the state Government) invested by the Central Board of Excise and Customs constituted under the Central Board of Revenue Act, 1963 with any of the powers of a Central Excise Officer under this Act.”

### **Persons Requiring Registration**

According to Section 6 of the Central Excise Act, 1944 and Rule 9 of the Central Excise Rules, 2002, the following persons are required to obtain registration –

1. Manufacturer
2. Persons who issue CENVAT invoice
3. Private warehouse holder
4. End-use based exemption user
5. Exporters

### **Persons Exempted from Obtaining Registration**

The following categories of persons are exempt from obtaining Registration under Central Excise –



1. Persons who manufacture the excisable goods, which are chargeable to nil rate of excise duty or are fully exempted from duty by a notification.
2. Small scale units availing the slab exemption based on value of clearances under a notification.
3. The supplier of raw material who gets his goods manufactured on his account from any other person.
4. In respect of branded jewellery, the job-worker need not get registered if the principal manufacturer undertakes to discharge the duty liability.
5. Persons manufacturing excisable goods by following the warehousing procedure under the Customs Act, 1962.
6. Persons who carries on wholesale trade or deals in excisable goods (except first and second stage dealer and the depots of a registered manufacturer);
7. A 100% Export Oriented Undertaking, or a unit in Export Processing Zone or Special Economic Zone licensed or appointed, as the case may be, under the provisions of the Customs Act, 1962.
8. Persons who use excisable goods for any purpose other than for processing or manufacture of goods availing benefit of concessional duty exemption notification.

### **Registration in case of Multiple Premises etc**

In case of separate premises, separate registration will be required. However, separate registration will not be required, in case where two or more premises are actually part of the same factory i.e. where processes are interlinked, but are segregated by public road, canal or railway-line. The fact that the two premises are part of the same factory will be decided by the Commissioner of Central Excise based on factors.

### **Procedure for making Application for Registration**

1. Application in Form A-I
2. signature on Application
3. Submission of Ground Plan
4. Documents to be submitted

### **Procedure for Issue of Registration Certificate**

1. Verification of Application
2. Discrepancy of Verification
3. Time limit for Issue of Certificate
4. Recording of Applications and Grant of Certificate
5. Exhibition of Certificate of Registration

### **Excise Control Code (ECC Number)**

The Central Excise assesses and registered dealers have to obtain new Excise Control Code (ECC) number. This number is based on the principles of Common business Identifier and will ultimately replace the existing registration number.

### **Meaning of classification of Goods**

Classification of goods in Central Excise means under which Heading and subheading of CETA, 1985, is the goods kept and which rate is applicable on it. This procedure is called HSN and coding system.

### **Central Excise Tariff Act, 1985 (CETA)**

Excise duty liability arises on production of goods. Once, liability is fixed, then the amount of duty is to be fixed. for this purposes, amount of duty is determined in two steps. In first step, it is decided that at what rate duty will be paid. This rate is arrived through classification. In the second step, it is decided that on what amount, rate fixed in first step will be taken for calculation. For this provisions are made in sec. 4 of Central Excise Act.



### Methods of Valuation of Excisable goods

Wherever excise duty is leviable at the rates prescribed in Central Excise Tariff Act (CETA), the scheme of valuation of excisable goods is governed by the provisions of section 4 of the excise Act, 1944. The value of the excisable goods so determined under Section 4 is generally termed as the “Assessable value” based on which the rate of duty is applied and the actual duty liability is calculated.

Basis of calculation of duty payable

Excise duty is payable on excisable goods on the following basis –

1. Duty as percentage based on Assessable value (advalorem duty)
2. Duty based on Maximum Retail Price
3. Specific duty
4. Duty as percentage of Tariff Value.

### Meaning of Transaction Value

As per Sec. 4(1) of the Act, excise duty is chargeable on any excisable goods with reference to their transaction value.

Section 4(3) defines ‘Transaction value’ as the price actually paid or payable for the goods, when sold, and includes in addition to the amount charged as piece, any amount that the buyer is liable to pay to, or on behalf of, the assessee, by reason of, or in connection with the sale, whether payable at the time of sale or at any other time, including, but not limited to, any amount charged for, or to make provision for, advertising or publicity, marketing and selling organization expenses, storage, outward handling, servicing, warranty, commission or any other matter; but does not include the amount of duty of excise, sales tax and other taxes, if any, actually paid or actually payable on such goods. Thus, following are main requirements or ‘transaction value’.

1. Price actually paid or payable
2. Price is for the goods
3. It includes, in addition to the price charged, any amount the buyer is liable to pay to assessee in the respect of the sales.
4. It includes advertising, financing, servicing, warrantee commission or any other amount payable by buyer to the manufacturer.
5. It does not include excise duty, sales tax and other taxes.
6. The transaction value will not be applicable for the purpose of payment of duty if the buyer and seller are related.
7. If the goods are sold to related person or if the goods are not sold valuation will be done on the basis of rules as may be prescribed.

### MRP Basis of changing Excise Duty

Section 4A of CEA empowers Central government to specify goods on which duty will be payable based on ‘retail sale piece’. For the purposes of this section, “retail sale price” means the maximum price on which the excisable goods in packaged form may be sold to the ultimate consumer and includes all taxes, local or otherwise, freight, transport charges, commission payable to dealers and all charges towards advertisement, delivery, packaging, forwarding and the like and the price is the sole consideration for such sale.

### Specific Duty

It is the duty payable on the basis of certain unit like weight, length, volume, thickness etc. For example, duty on Cigarette is payable on the basis of length of the Cigarette, duty on sugar is based on per kg basis etc. In such cases, calculation of duty payable is comparatively easy. Presently, specific rates have been announced for –

- a. Cigarettes (length basis),
- b. Matches (per 100 boxes/packs),





- c. Sugar (per quintal basis),
- d. Marble slabs and tiles (Sugar meter basis),
- e. Colour TV when MRP is not marked on the package or when MRP is not the sole consideration (Based on screen in cm.),
- f. Cement clinkers (per tonne basis)
- g. Molasses resulting from extraction of sugar (per ton basis)

### **Duty Based on Tariff Value**

In some cases, tariff value is fixed by Government from time to time. This is a “National Value” for purpose of calculating the duty payable. Once ‘tariff value’ for a commodity is fixed, duty is payable as percentage of this ‘tariff value’ and not the Assessable value fixed u/s 4. This is fixed u/s 3(2) of Central Excise Act. Government can fix different tariff values for different classes of goods or goods manufactured by different classes or sold to different classes of buyers. When tariff value is fixed, provisions of section 4 will form the basis for assessment.

The tariff value may be fixed on basis of wholesale price or average price of various manufacturers as the Government may consider appropriate. Basis for deciding value should be method provided in section 4. It should be one of the criteria, but need not be the only one criteria.

Provision of fixing tariff value is used very rarely as frequent changes become necessary when prices rise. Such tariff value can be fixed only for few selected commodities.

Presently, tariff values have been fixed for (a) Pan masala packed in retail packs of less than 10 gm per pack.

(b) Tariff value for readymade garments has been prescribed as 60% of the retail sale price of such goods as specified on the package.

### **Inclusion of Transaction Value**

The following items will be included in transaction value for finding out Assessable value; if these items are not included in transaction value or invoice price or separately charged –

1. Advertisement publicity and marketing expenses
2. Packing charges
3. Design and Engineering charges
4. Compulsory after Sales Service/service in warranty period is included
5. Loading and handling charges within the factory
6. Price reduction due to advance
7. Consultancy charges
8. Dharmada

### **Exclusions from Transaction Value**

Central Excise Act provides that ‘transaction value’ does not include amount of duty of excise, sales tax and other taxes, if any actually paid or actually payable on such goods. Moreover, any other payment made by buyer to assessee will be included only if it is by reason or sale or in connection with sales.

### **The following deduction will be allowed towards Transaction Value –**

1. Trade Discount
2. Deduction of Taxes from AV
3. Outward Handling Charges
4. Installation charges
5. Post removal charges

### **Retail Sale Price**

The retail sale price means the maximum price at which the excisable goods in package form may be sold to ultimate consumer and includes all taxes local or otherwise, freight transport charges,



commission payable to dealers and all charges towards advertisement, delivery, packing, forwarding like and the price is the sole consideration for sale.

Special features of the MRP based Method

Following are the special features of the maximum Retail Price based valuation method for charging excise duty on goods –

1. Applicability of Provision
2. MRP provisions are overriding provisions
3. Products covered under the scheme
4. Partly assessed on MRP based and partly on transaction value based
5. MRP inclusive of all taxes
6. Increase in retail price after clearance from factory
7. MRP is not indicated or wrongly indicated
8. When more than one retail price declared
9. Department cannot challenged MRP printed on package

**Value based on Maximum Retail Price**

Central Government can impose excise duty on goods based on ‘retail sale price’. The provisions are as follows –

- a. The goods should be covered under provisions of standards of weights and Measures Act.
- b. Central government can permit reasonable abatement (deductions) from the ‘retail sale price’. While allowing such abatement, Central Government shall take into account excise duty, sales tax and other taxes payable on the goods.
- c. If more than one ‘retail sale price’ is printed on the same packing the maximum of such retail price will be considered.
- d. The ‘retail sale price’ should be the maximum price at which excisable goods in packaged forms are sold to ultimate consumer. It includes all taxes, freight, transport charges, commission payable to dealers and all charges towards advertisement, delivery, packing, forwarding charges etc.
- e. Central government has to issue a notification in official Gazette specifying the commodities for which the provision is applicable and the abatements permissible.

**PROCEDURE FOR COMPUTATION OF ASSESSABLE VALUE AND EXCISE DUTY PAYABLE UNDER CENTRAL EXCISE DUTY.**

Central Excise Duty is payable on Assessable Value of the goods at specific rates. The following procedure should be adopted for determination of assessable value and calculation of Excise Duty payable-

1. Computation of Assessable Value.
2. Calculation excise duty payable on Assessable value.
3. Rebate for CENVAT.

This procedure can be understood from the following table-

**Computation of Central Excise: Chart**

<p><b>Transaction Value of Goods Removed from factory</b>  <b>Add-</b> Following items if these are not included in Transaction Value i.e. separately charged in invoice</p> <ol style="list-style-type: none"> <li>1. Advertisement and marketing expenses incurred by purchaser on behalf of producer.</li> <li>2. Each type of packing charges will be added but returnable fixed packing will not be included.</li> </ol>		<p>.....</p>
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3. Design and Engineering Charges	.....	
4. Loading Charges and haulage within factory	.....	
5. After Sales Service Expenses	.....	
6. Curtailment in prices due to advance	.....	(+).....
<b>Less-</b>		.....
1. Discount (Trade Discount, Cash Discount or Quantity Discount)	.....	
2. Sales Tax, Excise Duty etc. (If included in transaction value price)	.....	
3. Post Removal Charges (included in price)	.....	(-).....
<b>Assessable Value</b>		.....
<b>Excise Duty Payable on assessable value</b>		
12% or as given in the questions		
Excise Duty = $\frac{\text{Assessable Value} \times \text{Rate of Duty}}{100}$	.....	
<b>Add - 3% Education Cess on Duty</b>	(+).....	
<b>Less - CENVAT credit for Inputs and capital goods</b>		
1. CENVAT credit for inputs 100%	(-).....	
2. CENVAT credit for input services - 100%	(-).....	
3. CENVAT credit for capital goods @ 50%	(-).....	
<b>Excise Duty Payable</b>		.....

**Rates of Excise duty during the financial year 2013-14 & 2014-15 -**

Excise duty 12% + 3% Education cess = 12.36%

**Note -** If the excise duty is included in assessable value, then the following formula should be applied.

$$\frac{\text{Assessable value including duty} \times \text{Rate of Duty}}{100 + \text{Rate of Duty}}$$

**Important points should be kept in view**

- The following important points should be kept in view while determine Assessable value under Transaction value method-
- If different prices charged to different buyers for same goods at same time the actual price charged will be taken in each case.
- Every packing charges will be includible either it is primary packing or secondary packing. However returnable packing will not be includible like cost of bottles supplied by the PEPSI are not includible because these are returnable.
- Design and drawing charges are part of assessable value, therefore includible.
- Internal transportation and haulage within factory is also part of assessable value.
- Advertisement expenditure and sales promotion charges incurred by the buyer on behalf of manufacturer will be added to transaction value.
- Goods or material supplied by the buyer to manufacturer without or lower cost is includible.
- Concession in selling price by manufacturer due to advance given by buyer will also be added to transaction value.
- Transportation charges after clearing of goods from factory gate or depot are post removal charges, therefore will not be includible.
- If the goods sold through depot the transportation charges from factory to depot shall be part of Assessable value, because removal place is depot.
- Charges relating to after sales services in guarantee or warranty period are part of assessable value, though such services given in future after removal of goods from the factory.



- Goods manufactured but not sold or cleared from factory or depot are not liable to tax; because liability of duty arises on the event of sale.
- If the goods sold through depot the price will be considered which prevail on depot on the date of removal from factory to depot even goods sold by the depot later on lower or higher price.
- Transit insurance charges, interest charged by manufacturer for delay of payment, Bank charges for collection of bill, installation charges etc. are post removal charges, so will not be includible.
- Trade discount, cash discount and other rebate will be deducted on actual basis, but concession in price due to payment of advance money shall not be deductible.
- Goods destroyed or damaged or shortage will not be considered, because these are post removal events.
- Basic Excise Duty, Special Excise Duty and other duty will be calculated on Assessable Value.
- Education cess @ 3% on Excise Duty payable.
- Goods cleared as sample shall also be taxable as goods sold. Goods manufactured for captive consumption will be valued at cost of production + 10% notional profit, i.e. 110% of cost of production will be assessable value.
- In case of job work, the job worker will be treated as manufacturer and liable to pay duty. In such case cost of raw material supplied by principal + processing charges + transportation charges on goods supplied to jobworker + profit of job worker will be assessable value. Cost of Transportation goods supplied by jobworker to principal will not be part of assessable value and price charged by the principal to its customers will be immaterial from excise duty point of view.
- CENVAT credit will be deducted against excise duty calculated on assessable value, CENVAT credit is available @ 100% in case of inputs, input services and 50% on capital goods used in final product.



## UNIT-II

### Meaning of Custom Duty

The term customs have derived its essence from the term custom, which means a customary practice or a course of action that is observed and repeated in the like circumstances. Customs duty has been in vogue from ancient times.

In the present time customs duty means a tax which is levied by the Government on import of goods into India and export out of India. It is a central tax and mainly imposed on imported goods. Generally Govt. levies export duty on a very few items due to export promotion. At present peak rate of customs duty is 10%.

### Main features of customs duty –

Customs duty is tax on import or export of goods. It is levied by central Govt. of India. It is collected and used by the centre. The main features of this tax are as under –

- 1) Customs Duty levied on import and export
- 2) Leaving of customs duty
- 3) Indirect Tax
- 4) Goods under Customs Act
- 5) Objects of Customs Duty
- 6) Important source of Revenue
- 7) Rate of Customs Duty

### Merits of Customs Duty

- 1) Regulating import and export
- 2) Protection to Domestic industries
- 3) Regulating the international trade competition
- 4) Checking on wasteful expenditure

### Disadvantages of Customs Duty

- 1) Increase the prices
- 2) Increase the cost of project
- 3) Domestic industries become lethargic
- 4) Incidence of customs Duty is uniform without discrimination.
- 5) Corruption

### Important Definitions: Customs Act

- |   |                                       |
|---|---------------------------------------|
| 1) Import – Sec. 2 (23)                             | 14) Entry Sec. 2 (16)                 |
| 2) Export – Sec. 2 (18) to 2 (20)                   | 15) Prohibited Goods Sec. 2 (33)      |
| 3) Goods – Sec. 2 (22)                              | 16) Proper Officer Sec. 2 (38)        |
| 4) Baggage  | 17) Warehoused Goods Sec. 2 (48)      |
| 5) Assessable Value                                 | 18) Market Price Sec. 2 (34)          |
| 6) Bill of Entry                                    | 19) Person in charge Sec. 2 (35)      |
| 7) Export manifest or export report                 | 20) Coastal Goods Sec. 2 (9)          |
| 8) Shipping Bill                                    | 21) Smuggling Sec. 2 (43)             |
| 9) Foreign going vessels and Aircraft – Sec. 2 (24) | 22) Vehicles Sec. 2 (46)              |
| 10) Customs airport Sec. 2 (10)                     | 23) Adjudicating Authority Sec. 2 (1) |
| 11) Customs Port Sec. 2 (12)                        | 24) Appellate Tribunal Sec. 2 (1B)    |
| 12) Customs Station Sec. 2 (13)                     | 25) Assessment Sec. 2 (2)             |
| 13) Customs Area Sec. 2 (11)                        | 26) Indian Customs Waters Sec. 2 (28) |
|   | 27) Land Customs Station Sec. 2 (29)  |



### **Types of Customs Duties –**

Tariff rates for customs duty are prescribed in Customs Tariff Act, 1975. The types of duties are explained below.

1. **Basic Customs Duty** – Basic Customs Duty is levied under section 12 of the Customs Act. The rates at which duties of customs shall be levied are specified in the First and Second Schedules to the Customs Tariff Act, 1975.
2. **Additional Customs Duty (CVD) for Excise** – This duty is popularly known as countervailing duty because it is levied to counter balance the excise duty in India for such imported items. Under Section 3(1) of the Customs Tariff Act, an additional duty on goods imported into the country is levied. The rate of this duty is equal to the excise duty on like articles produced or manufactured in India.
3. **Additional Customs Duty for sales tax** – Special Additional Duty is levied under section 3(5) of the Customs Tariff Act accordingly, any article which is imported into India shall in addition, be liable to a special additional duty, which shall be levied at a rate of 4% having regard to the maximum sales tax, local tax or any other charges for the time being leviable on a like article on its sale or purchase in India.
4. **Safeguard duty** – Central Government is empowered to impose safeguard duty in specified imported goods if central Government is satisfied that the goods are being imported in large quantities under such conditions that they are causing or threatening to cause serious injury to domestic industry. Such duty is permissible under WTO agreement. The only condition under WTO is that it should not discriminate between imports from different countries having Most Favoured Nation (MFN) status.
5. **Protective duties** – Section 6 of the Customs Tariff Act empowers the Central Government to levy a protective duty based on a recommendation made by the Tariff Commission.
6. **Countervailing duty** – If a country pays any subsidy (directly or indirectly) to the exporters for exporting goods to India, Central Government can impose Countervailing duty upto the amount of subsidy cannot be ascertained, provisional duty can be collected and after final determination, difference may be refunded. Such imposition should be by way of a notification.
7. **Anti-Dumping duty** – Dumping means export of an article from any country or territory to India at less than its normal value i.e. when the prices at which the goods are exported to India are less than the comparable price for the like product when destined for consumption in the domestic market of the exporting country. Anti dumping duty is imposed for offsetting the adverse effects of increased imports, subsidized imports or dumped imports.
8. **Export duty** – At present, 15% Export Duty is levied only on hides, skins and leather, and duty of 10% is levied on snake skins, hides, skins and leathers, and fur lamb skins (No export duty is levied on hides, skins and leather of finished leather of goat, sheep and bovine animals and their young ones). There is no export duty on any other product.

A detailed discussion is given below in respect of various types of customs duty.

### **Procedure for Computation of Customs Duty**

1. Firstly calculate basic Customs Duty on Assessable Value.
2. Secondly calculate Additional customs duty (CVD) @ of Excise duty rate applicable in India on aggregate amount. Assessable Value + Basic Customs Duty.
3. Then calculate 3% education cess on aggregate amount of Basic Customs Duty and Additional Customs Duty.
4. Lastly calculate special Additional Customs Duty @ 4% on aggregate amount of AV + total duties.

### **Prohibition on Import and Export –**

Prohibition on import or export denotes prohibition on import and export of the specified goods.



### Reasons for prohibiting imports and exports –

The customs act, 1962 envisages enforcing various restrictions and prohibitions in respect of import and export of goods. Section 11 of the customs act empowers the central government to prohibit the import or export of goods of any specified description. The conditions for restrictions may be required to be fulfilled before or after clearance. The purposes for which import/exportation can be prohibited are enumerated below –

- 1) Maintenance of security of India.
- 2) Maintenance of public order and standards of decency or morality.
- 3) Prevention of smuggling.
- 4) Prevention of shortage of goods of any description.
- 5) Conservation of foreign exchange and safeguarding of balance of payments.
- 6) Prevention of injury to the economy of the country by uncontrolled import or export of gold or silver.
- 7) Prevention of surplus any agricultural produce or the product of fisheries.
- 8) Maintenance of standards for classification, grading or marketing of goods in international trade.
- 9) Establishment of any industry.
- 10) Prevention of serious injury to domestic production of goods of any description.
- 11) Protection of human, animal or plant life or health.
- 12) Protection of national treasures of artistic, historic or archaeological value.
- 13) Conservation of exhaustible natural resources.
- 14) Protection of patents, trade mark and copyrights.
- 15) Prevention of deceptive practices.
- 16) Carrying on of foreign trade in any goods by the state, or by a corporation owned or controlled by the state to the exclusion, complete or partial, of citizens of India.
- 17) Fulfillment of obligations under the Charter of the United Nations for the maintenance of international peace and security.
- 18) Implementation of any treaty, agreement or convention with any country.
- 19) Compliance of imported goods with any laws which are applicable to similar goods produced or manufactured in India.
- 20) Prevention of dissemination of documents containing any matter which is likely to prejudicially affect friendly relations with any foreign state or is derogatory to national prestige.
- 21) Prevention of the contravention of any law for the time being in force.
- 22) Any other purpose conducive to the interests of the general public.

### Prohibited items of Imports/Exports –

Some of the prohibited items of imports/exports are shown here under –

#### a) Exports –

- 1) Sandalwood oil,
- 2) Cardamom,
- 3) Psychotropic substances,
- 4) Obscene books and other publications,
- 5) Tussar/Muga silk
- 6) Indian made wool,
- 7) Chillies and vegetable oil products
- 8) Animal casings
- 9) Specified fruits
- 10) Mechanical lighters
- 11) Books containing maps/diagrams showing borders of India erroneously.



## b) Imports -

- 1) Explosives,
- 2) Arms and ammunition,
- 3) Psychotropic substances
- 4) Narcotic drugs
- 5) Counterfeit coins
- 6) Quinine,
- 7) Saccharine
- 8) Matches
- 9) Fictitious stamps
- 10) Armored cars
- 11) Antiquities
- 12) Negative film or print of an Aerial photograph of any place in India.

## Prohibited goods for export -

Prohibited goods for exports mean such goods which cannot be exported from India in any case. The following goods are prohibited for export -

- 1) Wild life and their parts
- 2) Exotic birds
- 3) Endangered plants
- 4) Beef
- 5) Human skeletons
- 6) Tallow
- 7) Fat
- 8) Wood and wood product
- 9) Chemicals for weapons
- 10) Sandal wood
- 11) Red sandal wood

Aforesaid goods cannot be exported due to scarcity and to protect national interests. Exports of prohibited goods shall be illegal export and punishable.

## Restricted items for export -

In this category such goods covered which shall be exported under some restrictions. Such goods can be exported after the fulfillment of required conditions and legal formalities. The list of restricted goods for exportation is as up under -

- 1) Cattle
- 2) Camel
- 3) Chemical fertilizers
- 4) Fresh and frozen silver pom fishes
- 5) Fur, hides and skins
- 6) Industrial leather, fur leather, luggage leather, shoe upper leather.
- 7) Ores of chrome, manganese
- 8) Pulses, paddy, rice bran, seeds and planting material
- 9) Sea shells
- 10) Silk worms
- 11) Groundnut oil in consumer packs above 5 kgs.
- 12) Vintage motor cars,
- 13) Human blood plasma
- 14) Waste special minerals
- 15) Viscose staple fibre and
- 16) Chemicals for weapons





Aforesaid restricted items can be exported by dealers and agencies after obtaining license. They should follow the conditions mentioned in license. The quantity of export of such restricted goods must be in the limit permitted.

### **Free Import & Restricted Import**

There were many restrictions and legal formalities in relation to import of goods in India before liberalization. Presently, most of the goods can be imported without any license. Schedule II gives Export Policy. It contains very few products, where export is prohibited or restricted. Excluding those items, export of all other goods is free.

Imports may be classified in two categories –

1. Free Import
2. Restricted Import

Detailed discussion is given in connection of above categories.

### **Free Import**

As per WTO (World Trade Organization), India had to remove all quantitative restrictions (QRs) on imports in phased manner. Hence, the imports were being liberalized every year and import restrictions were completely lifted on 1.4.2001. Now almost all items are freely importable. However, to control imports, customs duty on some Products has been increased.

Basically, all imports are free except to the extent regulated by Foreign Trade Policy or any other law, Importer can be actual user or trader. All items, except restricted, prohibited and State Trading Enterprises can be freely imported under OGL i.e. Open General Licence.

### **Restricted Import**

Now, imports of goods are generally freely permitted. However, there are various restrictions on import of some goods.

Very few items have been included in restricted list. These can be imported only against license –

**Provisions in respect of Imports** – Restrictions on imports are summarized here.

1. Import only through State Trading Enterprises
2. Import of food Articles
3. Import of gold & Silver
4. Prohibited Items
5. Import of Textile material
6. Import of old cars
7. Import of new cars
8. Import of alcoholic items

### **Transaction Value – Inclusions –**

Some costs, services and expenses are to be added to the price paid or payable, these are not already included in the invoice price. These are discussed below –

**1) Commission and Brokerage includible** – Commission and brokerage except buying commission is includible. Buying commission means fees paid by importer to his agent for the service of representing him abroad in purchase of goods being valued.

Exporters from abroad often appoint local agents in India to promote their sales in India. These agents get commission in Indian Rupees which is paid directly by Indian Importer. (Amount net of commission is paid to foreign exporter in foreign currency). This commission is includible for purpose of valuation.



In some cases, when imports are made by canalizing agency, goods are sold to Indian buyer on high sea sale basis. The imported goods are cleared by Indian buyer. In such cases, service charges payable to the canalizing agency have to be included for calculation of 'Assessable Value'.

**2) Packing cost is includible** – Cost of containers which are treated as being part of goods for customs purposes. Similarly, cost of packing-both labour and material is to be included.

Cost of durable and returnable containers not to be added-Modern trend is pack goods in containers for convenience of transport. These containers are durable and re-usable. Hence, cost of such containers is not added for Customs Valuation, if importer agrees to execute a bond to re-export the containers within six months.

**3) Value of Goods supplied by buyer to be added** – If buyer has supplied goods free of cost or at reduced cost in connection with production or export of goods, these should be included. The goods may be (a) materials, components, parts and similar items incorporated in imported goods (b) tools, dies, moulds and similar items used in production of imported goods (c) consumables used in production of imported goods.

**4) Services/documents/technical know-how supplied by Buyer to be added** – Cost of engineering, development, art work, design work and plans and sketches undertaken by buyer which is necessary for production of imported goods is includible, only if such work is undertaken outside India. The addition should be done on objective and quantifiable data. Data available with importer should be used as far as possible. If the services are purchased or leased by importer, such purchase/lease cost should be added. If the importer has himself done the work abroad, its cost should be added on basis of structure and management practices of importer and his accounting methods.

**5) Royalties and license fee** – If buyer has paid royalties and license fees separately in relation to imported goods, these are includable, unless they are already included in selling price. Royalty may include payments in respect of patents, trademarks or copyrights. However, following i.e. (a) charges for the right to reproduce the goods in Indian shall not be added and (b) payments made by buyer (importer) for right to distribute or resale the imported goods shall not be added if such payment is not a condition for export to India.

Royalties and license fees related to imported goods that the buyer is required to pay, directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable.

**6) Other payments made to seller to be added** – If buyer has made, directly or indirectly, any payment to seller as a condition of sale, such payments should be included for obvious reason that ordinary selling price has been reduced due to such payment.

**7) Cost of Transport upto port should be added** – Cost of transport from exporting country to India is to be added in Assessable Value. In other words, CIF value is the basis for valuation. If the goods are imported by air, the air freight will be very high. Hence, in case air freight is higher than 20% of FOB price of goods, only 20% of FOB price will be added for customs valuation purposes.

**8) Insurance cost should be added** – Insurance charges on goods are to be added. If these are not ascertainable, these will be calculated @ 1.125% of FOB value of goods. If the importer has paid insurance charges on customs duty, which is a post importation factor, insurance charges relating to such customs duty are not includible.

**9) Landing charges to be added** – Cost of unloading and handling associated with delivery of imported goods in port (called landing charges) shall be added. These will be calculated @ 1% of CIF value, i.e. FOB price plus freight plus insurance.



**Exclusions from Assessable Value –**

If the following items are included in the transaction value, then such expenses or charges should be excluded –

**1) Some specific charges –**

If the following charges are included in the invoice, shall be excluded from assessable value.

- a) Charges for construction, erection, assembly, maintenance or technical assistance undertaken after importation of plant, machinery or equipment.
- b) Cost of transport after importation.
- c) Duties and taxes in India.

**2) Payment not related to imported goods –**

Other payments from buyer to seller that do not relate to imported goods are not part of the customs value.

**3) Interest on Deferred Payment –**

Interest on deferred payment, if shown separately in the Invoice cannot be added. However, if there is a fixed charges payable irrespective of date of payment, it will not be allowed as deduction even if such fixed charges is termed as interest.

**Calculation of Customs Duty Payable**

The following are the different types of customs (Import) duties –

**1. Basic Customs Duty (BCD)**

This is the duty levied under Section 12 of the Customs Act. It is levied as a percentage of value as determined under section 14 (1) of the Act. Basic duties are prescribed in the Customs Tariff Act.

**Formula – Basic Customs Duty**

$$\frac{\text{Assessable value} \times \text{Rate of customs duty}}{100} = \text{Basic customs duty}$$

**2. Additional Duty of Customs (CVD)**

This duty is popularly known as countervailing duty. Under Section 3(1) of the customs Tariff Act, an additional duty on goods imported into the country is leviable. The rate of this duty is equal to the excise duty on like articles if produced or manufactured in India. If the rate of this duty is on as valorem basis the value for this purpose will be the total of the value of imported articles and the customs duty on it.

**Formula – Additional Customs Duty**

$$\frac{\text{Aggregate amount (A.V. + Basic duty)} \times \text{Rate of additional duty}}{100} = \text{Additional Customs Duty (CVD)}$$

**Note –** Here rate of Additional Duty means rate of excise duty applicable in India. It includes education cess also. For example if rate of excise duty in India like improved goods is 12% or 20% or 8%.

**Special Note –** AS per Notification issued by customs department (17.3.12) Basic Excise Duty shall be taken for the purposes of calculation of Additional Customs Duty e.g. 12% or 8% or 4% as case ay be. prior this notification excise Duty + Education cess i.e. gross rate of excise duty was considered, but raw education cess shall not be added to excise rate.

**3. Education cess on customs duty**

An education cess has been imposed on imported goods. This Education cess will be customs' it means it will be calculated on aggregated amount of Basic Customs Duty + Additional Customs Duty (Counter Vailing Duty)

**4. Special Additional Duty in Lieu of Sales Tax (Sec. 3(35))**

A special additional duty was imposed @4% to counter balance sales tax etc.

If the goods imported the special additional duty shall be charged @4% on the following aggregate amount –

- 1. Assessable Value (A.V) .....
- 2. Basic customs duty + .....
- 3. Additional customs duty for excise + .....



4. Education cess on basic duty + Additional duty + .....  
 Aggregate amount for special Duty .....

**Computation of Assessable Value in Rs**

Invoice Price of Goods		.....
<b>Add – Following Items</b>		
1. Commission to agent of seller	.....	
2. Cost of Packing	.....	
3. Development and Design charges	.....	
4. royalty and licence fees	.....	
5. Other payment or supply to seller	.....	(+).....
<b>FOB Value</b>		.....
<b>Add –</b>		
6. Transportation cost Foreign to Indian port (see note – 1)	.....	
7. Insurance Premium If the insurance premium is not given then 1.125% of FOB price will be added.	.....	(+).....
<b>(CIF) Cost of Insurance &amp; Freight Value</b>		.....
<b>Add – (Landing charges 1% of CIF value)</b>		(+).....
<b>Assessable value</b>		.....

**Note –** Conversion of Foreign currency shall be at the rate prescribed by Central Excise & Customs Board.

**FOB Price =** Free on Board Value (Price + Packing + Commission + other expenses up to ship)

**CIF value =** Cost, Insurance and freight Value

Note –

- If the goods are imported through air and air freight is more than 20% of FOB price, then maximum 20% of FOB will be taken as transportation cost.
- For the conversion of value in foreign currency to Indian currency (i.e. Dollars to Rs.) the Exchange Rate will be taken declared by the Board of Excise & customs (CBE & C). Rate announced by Reserve Bank of India or Rate charged by the bank is immaterial.

Formulas and Procedure for Calculating Duty Payable

**1. Basic Customs Duty (BCD)**

$$\frac{\text{Assessable value} \times \text{Basic Rate of custom duty}}{100}$$

**2. Additional Customs duty (CVD) on Assessable value + Basic Duty**

$$\frac{\text{Aggregate amount} \times \text{Rate of additional duty (Basic excise rate)}}{100}$$

**3. Education Cess @3%**

$$\frac{\text{Aggregate customs Duty} \times 3}{100}$$

**Attention Please!**

While calculating total Customs Duty payable the following points should be kept in view –

- Date of entry of imported goods in India is important the rate of duty and education cess shall be applicable according to relevant date.
- To counter balance Sales Tax or VAT a Special Additional Customs Duty under Sec. 3(5) has been reimposed @ 4% hence such duty shall be calculated in each case, If the imported goods are exempted from such special duty then it shall not be charged.



## Unit – III Central Sales Tax Act

### Introduction

Central Sales Tax is applicable on sales of goods from one state to another. This tax is imposed by the Central Govt., but it is collected by the states and the amount collected is also used by state Govt. For example sale of goods from a Regd. Dealer of M.P. to a dealer of Bihar is inter-state sale, therefore Central Sales Tax Act is applicable. Though it is a central tax but the tax on such interstate sale will be collected and retained by M.P. Govt.

The central sales tax Act, 1956 is a fiscal legislation, which imposes a levy of tax on sale of goods –

1. In the course of interstate trade and commerce, or
2. Outside the state, or © In the course of imports into or export from India.

### Brief History of CST –

At present CST Act is applicable on interstate sale. To know why it was implemented, it is important to know its brief history.

1. Sale tax was started in 1993 in India.
2. The Indian constitution came into existence from 26<sup>th</sup> Jan., 1950. This constitution provided the right of levying sales tax to the states.
3. Due to the decisions of courts State Govt. has to return previous tax on the Interstate sales. This order was called 'Sales Tax Validity Act 1956.
4. Appointment of taxation enquiry commission
5. Central Govt. accepted the suggestion by the commission and passed Constitution (VI amendment) Act 1956. For same amendments –
  - Central Govt. give the power for collection of tax to state on Interstate sales.
  - Distribution of this tax to the state from where it was collected.
  - Parliament was given the right to make law in this sense.
6. Central gov. passed CST Act 1956. Entry 92A of the List – I (Union List) to the seventh schedule of the constitution of India Empowers the Union Govt. to levy tax.
7. Central Govt. amended the CST Act from time to time to make it more practicable in 1958, 1968, 1972, 2002, 2007 and 2009.
8. Sale to dealer of special economic zone will be exempted.

### Objects of the CST Act 1956

This Act has been passed and implemented for the following objects –

1. Defining the interstate trade – To define the principles by which it could be decided as to when shall the sale or purchases of any goods be treated as interstate sale; sale outside the state or as import in or export from India.
2. Laying down the principles regarding the levying and collection of tax on Interstate sales – To decide the principles regarding the sales of goods under the inter-state trade and the distribution in the states.
3. Some important goods – Deciding some goods to be of special importance in the interstate trading and laying down restrictions and conditions regarding imposing the sales tax on goods so declared by the state governments.

### Main Features of the CST Act, 1956

1. Jurisdiction
2. Single point tax
3. Tax collection
4. Important goods
5. Restrictions
6. Rates of tax
7. No minimum tax free limit
8. Process of tax assessment
9. Right to frame rules
10. CST Administration



### Applicability of Central sales Act –

If the some conditions mentioned below are satisfied, then the provisions of CST Act are applicable as follows –

1. Central Sales Tax shall be levied on Interstate Sales.
2. It shall be levied on interstate turnover which is the aggregate of sales price.
3. It is levied at specified rate.
4. It shall be collected in the state from which the movement of goods commences and by the registered dealer.

### Important Terms & Definitions

1. **Appropriate State – Sec. 2(a)** – In relation to a dealer who has one or place of business situated in the same State, appropriate state means that State in which business is situated. If however, a dealer has places of business, situated on different states, every such state with respect to the place (or places) of business situated within its territory shall be treated as appropriate state.
2. **Business – Sec. 2 (aa)** – Business includes –
  - Any trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern and
  - Any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern.
3. **Place of Business – Sec 2 (dd)** – Place of business includes –
  - In any case where a dealer carries on business through an agent the place of business of such agent.
  - A warehouse, godown or other place where a dealer stores his goods; and
  - A place where a dealer keeps his books of account.
4. **Dealer Sec. 2 (b)** – Any person who carries on (whether regularly or otherwise) the business of buying selling supplying or distributing goods, directly or indirectly, for cash, or for deferred payment or for commission, remuneration or other valuable consideration, is dealer under Central Sales Tax Act.
  - An Individual
  - An authority or organization – A local authority, a body corporate a company, any co-operative society or other society, club, firm, Hindu undivided family or other association of persons which carries on such business.
  - An agent
  - An auctioneer
  - Branch
  - Government
5. **Goods – Sec. 2 (d)** – Goods include all materials, articles, commodities and all other kinds of movable property, but does not include newspapers, actionable claims, stocks, shares and securities & money”.

Items covered under goods. It includes animal's objects such as livestock animals, and birds, in captivity as these are movable property. Goods include uprooted trees, second hand goods, rejected goods, worn out goods etc.

Computer software which is available off the shelf. However customized software prepared on the basis of the requirement of a particular customer stands on a different footing.

Standing trees are not goods and not taxable but standing timber will be taxable under CST if timber is identified, contract is unconditional and timber is in a deliverable state. In such case, it is movable property and thus goods.



6. **Declared – Sec. 2c** – Declared goods means goods declared under Section 14 to be of special importance in interstate trade or commerce.

The broad category of goods which the Central Government has declared to be of special importance is as under –

- Cereals
- Coal
- Cotton
- Cotton fabrics
- Cotton yarn
- Crude oil
- Hides and skins
- Iron and Steel
- Jute
- Oilseeds
- Pulses
- Man made fabrics
- Sugar
- Man made Fabrics and Synthetic Yarn
- Woven fabrics of wool
- LPG (Domestic Gas)

7. **Sale – Sec. 2(g)** – Any transfer of property in goods by one person to another for cash or for deferred payment or for any other valuable consideration, and includes a transfer of goods on the hire purchase or other system of payment by installments, but does not include a mortgage or hypothecation of or a charge or pledge on goods.

Transaction regarded as sale –

- Transfer on Hire purchase system
- Transfer of any goods without contract
- Execution of work
- Right to use
- Supply to members
- Supply of food for consideration

The transactions not regarded as sale –

- Mortgage
- Pledge
- Hypothecation
- Charge
- Lease Transactions
- Branch transfer
- Works Contracts
- Job work/Processing

8. **Sale Price – Sec. 2 (h)** – Sale price means the amount payable to a dealer as consideration for the sale of goods. The following shall not be included –

- Any sum allowed as cash discount according to the practice normally prevailing in the trade
- The cost of freight or delivery or the cost of installation in cases where such cost is separately charged. This exclusion of freight charges and delivery charges is based on the agreement or understanding to charge freight separately and the dispatch is done at the request and cost of the purchasing dealer.

However any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof shall be included.

**Inclusions:** Following will be included in sales price

- Cost price of stock
- Cost of packing material



- Packing charges
- Excise Duty
- Bonus for extra sales
- Expenses incurred by trader before invoicing of goods
- Central sales tax (if not shown separately)

**Exclusions:** However it shall not include the following

- Freight/transport charges for delivery of goods if charged separately.
- Cost of installation if charged separately.
- Cash discounts for making timely payment.
- Trade discounts
- Insurance charges of goods insured on behalf of the buyer or at the request of the buyer.
- Goods returned within 6 months of the date of sale,
- Goods rejected.

9. **Turnover** — Sec. 2 J Turnover used in relation to any dealer liable to tax under this Act means the aggregate of the sale prices received and receivable by him in respect of sales of any goods in the course of inter State trade or commerce made during any prescribed period.
10. **Year** — Sec. 2(k) Year in relation to a dealer, means the year applicable in relation to him under the general sales tax law of the appropriate state, and where there is no such year applicable, the financial year.
11. **Taxable Turnover** — Sec. 2 (w) — In relation to any period means that part of a dealer's turnover for such period which remains after deducting there from —
  - Exempted goods
  - Tax paid goods
  - Goods sold on declaration
  - Amount of tax included
  - Any other deduction

### **Declared Goods [Sec. 2 (C)]-**

Goods of special importance in interstate trade or commerce called declared goods. Certain goods to be of special importance in interstate trade or commerce. The following goods are of special importance in interstate trade or commerce – under section of 15 C.S.T. –

1. **Cereals** – That is to say – (i) Paddy (ii) Rice (iii) Wheat (iv) Jowar or milo (v) Bajra (vi) Maize (vii) Ragi (viii) Koda (ix) Kutki (x) Barley
2. **Coal** – Including coke in all its forms, but excluding charcoal
3. **Cotton** – They is to say, all types of cotton (indigenous or imported) in its unmanufactured state, whether ginned or unginned, baled, pressed or otherwise, but not including cotton waste.
4. **Cotton fabrics** – Covered under various heading of the Schedule to the central Excise Tariff Act, 1985.
5. **Cotton yarn** – But not including cotton yarn waste
6. **Crude oil** – That is to say, crude petroleum oils and crude oils obtained from bituminous minerals (such as shale, calcareous rock, sand), whatever their composition, whatever obtained from normal or condensation of deposits or by the destructive distillation of bituminous minerals.
7. **Aviation turbine fuel** – Aviation turbine fuel sold to a Turbo-Prop Air craft.
8. **Hides and Skins** – Whether in a raw or dressed stage
9. **Iron and steel** – Pig iron, Sponge iron, Cast iron, Steel semis, Steel bars, Steel structural's, Sheets, Plates, Discs, Tin plates etc.





10. Jute – That is to say, the fiber extracted from plants belonging to the species corchorus capsularis and Corchorus olitorius whether baled or otherwise.
11. Oilseeds – That is to say – (i) Groundnut or peanut (ii) Sesamum or Til (iii) Cotton seed (iv) Soyabean (v) Linseed (vi) Castor (vii) Coconut (viii) Sunflower (ix) Nigar seed (x) Neem, vepa (xi) Mahua (xii) Karanja, pongam, hongra; (xiii) Kusum (xiv) Punna, undi (xv) Kokum (xvi) Sal (xvii) Tung (xviii) Red palm (xix) Sunflower.
12. Pulses – That is to say – (i) Gram of gulab gram (ii) Tur or arhar (iii) Moong or green grams (iv) Masur (v) Urad (vi) Moth (vii) Khesaris.
13. Sugar
14. Man made fibrik and synthetic yarn
15. Woven fabrics of wool
16. Liquid Petroleum Gas (LPG)

Restrictions and conditions in regard to tax on sale or purchase of declared goods within a State: (Sec. 15.)

1. Maximum tax rate 5% - in respect of any sale or purchase of such goods inside the State shall not exceed two percent of the sale or purchase price.
2. Single point tax  
Reimbursement of tax
3. Deduction for tax on paddy — Where a tax has been levied under that law in respect of the sale or purchase inside the state of any paddy the tax leviable on rice procured out of such paddy shall be reduced by the amount of tax levied on such paddy as treated as different commodity.
4. Tax on paddy – When exported where a tax on sale or purchase of paddy is leviable under that law and the rice procured out of such paddy is exported out of India, then, the paddy and rice shall be treated a single commodity.
5. Tax on pulses — Each of the pulses whether whole or separated and whether with or without husk, shall be treated as a single commodity for purposes of levy of Tax under that law.

### Inter State Sales

Central sales tax is levied upon the inter State sales. Therefore, it is important to understand clearly the meaning of Interstate sales. Generally, selling of goods by a dealer of one state to the dealer of other state is called interstate sales.

#### I. When is a sale or purchase of goods said to take place in the course of Inter-state Trade or Commerce (Section 3)

A sale or purchase of goods shall be deemed to take place in the course of Inter state trade or commerce, if the sale or purchase:

- a. Occasions the movement of goods from one State to another; or [Sec. 3 (a)]
- b. Is effected by transfer of document of title to the goods during their movement from one State of another. [Sec. 3(b)]

#### II. Cases where there is no Inter-state sale: There may be a case where goods moved from one State to another but not in pursuance to a contract for sale or purchase. In such cases there will be no Inter-state sale. Such cases are illustrated below:

1. **Stock transfer or branch transfer** — Transfer of goods to a branch or dispatch of goods to a consignment agent does not amount to sale: and consequently there is no Inter-state sale.
  - a. Sent to Consignment Agent — Goods are dispatched of Consignment Agent by Principal. Goods remain property of the Principal. A agent sells goods on behalf of Principal it is not a sale.
  - b. Sent to C & C Agent — A C & F Agent does not have the right on property in the goods stocked with him by the manufacturer. His duties are confined to stocking the goods and



forwarding them to persons and places as instructed by the manufacturer. The right to sell the goods does not vest in him.

- c. Sent to Branch Transfer – There is no transfer of property when goods are dispatched to branch and hence there is no liability of CST.
2. Movement of goods commences and terminates in the same state – Where the movement of goods commences and terminates in the same State, it shall not be deemed to be a movement of goods from one State to another by reason merely of the fact that in the course of such movement, the goods pass through the territory of any other State.
3. Intra-state sales – When a purchaser from another state comes in a state for purchasing some goods and seller delivers the goods to him directly such sale will not be interstate sale, though purchaser and seller belong to different states.
4. Transfer of Goods from factory to the place of sale —When goods are transferred from factory (which is in one state) to the Godown, other branch unit or sales office (which is in other state), then it is not an interstate sales.

**Conclusion** — Sale can be covered under inter-state sale which fulfils the following conditions

- The goods have actually been sold.
- The goods have been transferred from one state to other under the agreement or contract of sale.
- The goods have been transferred from one state to the other only for sale, not on any other ground.

III. When a sale or purchase of goods shall be deemed to take place inside a state –

1. Ascertained Goods. In the case of specific or ascertained goods, a sale is deemed to take place inside the State where such goods are situated at the time when the contract of sale is made.
2. Unascertained Goods. In the case of unascertained or future goods, a sale is deemed to take place inside a State where such goods are situated at the time of their appropriation to the contract of sale by the seller or by the buyer.

IV. Sale or purchase of goods said to take place in the course of import or export (See. 5).

- a. Sale or purchase occasions export; or sale purchase is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontiers of India,
- b. Sale or purchase occasions import; or sale purchase is effected by a transfer of documents of title to the goods before the goods have crossed the CLISTOMS frontiers of India.
- c. Last sale or purchase of any goods immediately preceding the sale or purchase occasioning the export of those goods 'Out of the territory of India if it took place after, and was for the purpose of complying, with the agreement or order for or in relation to such export.

**Import** — The purchase or sale of any goods in India shall be treated as import, only when the goods have been already purchased or the document of title have been transferred before the goods enter the Indian customs frontiers.

**Export:** The purchase or sale of any goods shall be treated as export for India, only under the following conditions

1. Under the purchase or sale, the goods are sent out of India. or
2. By transferring the title deeds the goods are sold at the time after the goods have crossed the custom limits of India,

### Exemption from Central Sales Tax

Following types of sales will be exempted from Central Sales Tax liability –

1. **Sales in course of Export or Import** – No channel sales tax can be levied if sale is in course of import or export Constitution of India prohibits imposition of sales tax on import and export. Object underlying the exemption is to avoid double taxation of foreign trade, which is of so



great importance to the nation's economy. Double taxation is avoided by exempting export sale and import purchase from levy of sales tax by the state.

2. **Exemption from CST if sale to Special Economic Zone (SEZ)** – With effect from 11<sup>th</sup> May 2002 interstate sale made to a unit in SEZ (Special Economic Zone) will be exempt from Central Sales Tax.

Special Economic Zone (SEZ) is set up for export purposes. Such zone is treated as if it is a foreign territory within India. Units in SEZ can import inputs and capital goods without payment of customs duty and procure indigenous inputs and capital goods without payment of Excise duty. All their products should be exported.

It may be noted that the exemption from CST is only if the sale is to unit in SEZ under the following conditions –

- The registered dealer in SEZ can obtain goods from selling registered dealer outside the Zone without payment of CST.
  - The goods can be obtained for purpose of manufacture, production, processing or for use as trading or packing material or packing accessories.
  - The registered dealer in SEZ should have been authorized to establish such unit in SEZ by authority specified by central Government. Development Commissioner of SEZ is authorized to permit a person to set up unit in SEZ.
  - The goods which the unit in SEZ can obtain without CST shall be specified in the sales tax registration certificate of SEZ unit. Thus, existing SEZ units should get their sales tax registration certificate amended to include all the articles which they intend to procure.
  - The purchasing dealer has to submit a declaration in prescribed form – I provided by the Central Government.
3. **Exemption from Central Sales tax on subsequent Sale** – Under Sec. 6(2) Exemption is available to the second subsequent sale affected in the course of interstate trade or commerce provided the sale is affected by transfer of documents of title to such goods during their movement from one state to another. The conditions to be fulfilled for availing this exemption are as follows –
- There must be an interstate sale by a registered dealer to another registered dealer.
  - If the goods sold under the interstate trade while being sent from one state to another state are on the way and if are sold to any person by transferring the documents of the goods or the title deeds.
  - Such subsequent sale will be exempted only if the resale is done to registered dealer or Govt.
  - To the registered dealer the declaration of form C and from whom the goods have been purchased a certificate in form E – I and E – II have been obtained.
  - If such goods are tax Free State then there is no need of Form D or C.
  - For similar subsequent sales, the dealers should obtain E – II form from the previous vendors.
4. **Goods exempted within state, also exempt from Inter States sales** – If sales are generally exempt for sale within the state, interstate sale to a registered or unregistered dealer will also be exempt. So, exempted goods u/s 16 of M.P. VAT is also exempt from CST. some exempt goods are Cloth, Sugar, Salt, Agricultural implement etc.
5. **Goods sent to branch agent or other office** – Under the CST Act, no tax is levied upon the goods sent by a dealer to his shop, agent or a branch, situated in any other state. If a trader asks that goods sent by him are not sale, but goods sent to branch, agent or other office in other state then this has to be proved by the dealer. For it he has to submit a declaration on form 'F'.



### Forma for Declaration (C, E – I, E – II, F – I)

A dealer has to issue certain declarations in prescribed forms to buyers/sellers. These forms are prescribed in Central Sales Tax (Registration and Turnover) Rules, 1957. Out of these forms, forms C, E – I, E – II, F, H and I are printed and supplied by Sales Tax or Commercial Tax authorities and are supplied by them. Dealer has to issue declarations in the forms printed and supplied by the Sales Tax or Commercial Tax authorities only. These forms are in triplicate. But, Form D is to be issued by Government and can be printed/typed by the Government department making purchases.

Various important declaration forms in respect of central sales tax are discussed below –

### Declaration in Form C

Under CST Act, sales tax on Inter State sale is 2% or VAT rate for sale within the state whichever is lower, if sale is to registered dealer and the goods are covered in the registration certificate of the purchasing dealer. Otherwise the actual tax leviable on sale of goods inside the State. If the selling dealer pays CST @ 2% or lower, he has to produce proof to his sales tax assessing authority.

So, concessional rate is applicable only if purchasing dealer submits declaration in prescribed form 'C'. If 'C' form is not submitted, the tax at actual applicable in the state under VAT rate is payable.

Some important points related to Form C are discussed below –

1. **Authority to issue C Form-** The blank C form has to be obtained by purchasing dealer from Sales Tax or commercial tax authority in the State in which goods are delivered, which is usually the place where purchasing dealer is registered.
2. **Contents of C Form under CST-** The 'C' form contains particulars like
  - a. Purchasing dealer's Sales Tax registration number and its validity.
  - b. Details of goods obtained Purchase Order Number, seller's bill number/ date, cash memo number/date, challan number/date etc.
  - c. Whether goods required for resale or use in manufacture/processing or use in power generation or use in mining or use in packing.
  - d. Whether dealer is registered in the State in which goods are delivered.
  - e. Name and address of seller with name of State. The certificate has to be declared to be true to his belief and has to be signed by authorized signatory of the purchasing dealer. The form bears seal (rubber stamp) of the sales tax or commercial tax authority issuing the form.
3. **Time of Submission-** Form C is issued by the purchasing dealer to the selling dealer who shall submit it to the first assessing authority. After the assessment the appellate authority may allow submission of C Form if sufficient cause is shown for not submitting C Form before the first assessing authority.
4. **How many transactions can be recorded in one C Form-** A Major amendment has been made effective from 1.10.2005 that a single declaration may cover all transactions of sale which take place in one quarter between the same two dealers. If, however, transactions related to more than one quarter, a separate form has to be filed for each quarter.
5. **Consequences in case of loss of C Form-** If the C Form is lost (blank or completed) while it is in the custody of the purchasing dealer or in transit to the selling dealer, he has to submit an "indemnity bond" in Form G to the sales tax authority of the State from whom C Form was obtained.

### Registration of Dealers under C.S.T. Act

Every such dealer who purchases or sells the taxable goods during the interstate trade or business, would have to compulsorily get himself registered. For example, if a trader of M.P. Sells his goods outside M.P. then under CST act he has to get himself registered.



**Types of registration-** Under the CST Act, registration shall be of two types- (1) Compulsory registration, (2) Voluntary registration.

1. **Compulsory Registration-** If any dealer purchases or sells goods under the interstate sales, he will be liable to pay the tax howsoever low his sale might be. Hence, he will compulsorily have to get himself registered.
2. **Voluntary Registration-** In the following conditions the dealer may apply for his voluntary registration –
  - a. If no tax is levied upon any dealer under the CST Act and the dealer is registered under sales tax act of the Appropriate state, such dealer could get himself, at his discretion registered under the CST Act.
  - b. If in any state or in any part of the state where sales tax Act of the state is not applicable and if the dealer's business centre is there in such state or any part of such state. Such dealer also could apply for registration under the CST act.
  - c. If any dealer takes up business of tax free goods in the state, he can apply for registration under the CST Act.

### Procedure for Registration

The following procedure prescribed for Registration of dealers under CST-

1. **Application for Registration-** Every dealer who wants to get himself registered under CST Act. will have to apply to the authorised officer who normally is a sales tax or commercial tax officer. This application shall be in the form 'A' of the Act.
2. **Period for Application-** A dealer should apply for registration within 30 days of interstate sale.
3. **Signature on application-** The application must be signed by the owner or proprietor of the business, by any partner in case of partnership firm, by the karta in case of HUF, by the main officer of the company in case of joint stock company and by the authorised officer of the govt. in case of govt. department.
4. **In case of more than one place of Business-** If any dealer has more than one place of business in one state, he shall have to submit only one application form
5. **Fees for Registration-** The fees prescribed for the purpose of registration application are Rs. 25. This fee is paid in the form of affixing the Court fee stamps worth Rs. 25 on the application for registration.
6. **Issuance of the Certificate for Registration-** When the concerned officer is satisfied, he issues a certificate on the form 'B' for registration. This certificate becomes effective from the date of application for registration.
7. **Rejection of application** - If the officer thinks that the application submitted for registration doesn't contain all the information required to be given, or that incorrect information has been given, or the stamps of the requisite value have not been affixed or adequate security has not been given, then the officer will grant opportunity to the applicant to furnish the information, to rectify the mistakes, to affix the stamps or to give adequate security. If the applicant, even after this, remains negligent the officer will reject the application.
8. **Amendments in the certificate-** Two types of amendments can be done in the certificate –
  - a. **On application by the dealer-** If the dealer wants any amendment in his certificate, then he can do it, for this he has to send application to the authorized officer.
  - b. **By the authorized officer-** If the name of trade or place or type is changed or some other reason for which amendment is necessary then if the authorized officer wants can do the same.

### Cancellation of certificate of registration

Under the CST Act, the registration certificate of a dealer might be cancelled under the following conditions—

- a. **By tax assessing officer [ Sec. 7 (4B) ]**



1. If the dealer has closed the business.
2. If the existence of the company has become extinct.
3. If the dealer does not observe or follow the instruction as given in section 7 (3a) without suitable causes.
4. If the dealer doesn't follow the provisions of the section 7 (3-g)
5. If the dealer doesn't clear the tax payable by him or the amount of penalty imposed upon him, in accordance with the Act.
6. If the registration is cancelled for the dealer, under the Sales Tax or Commercial Tax Act of the concerned state.
7. On the basis of any other reasonable cause.

**b. Cancellation on application of dealer [Sec. 7(5) ]**

If a dealer thinks he is not liable to pay tax under CST Act and no tax burden will arise in near future, he can submit an application for the cancellation of the certificate in front of the assessing officer—

1. This application should be presented 6 months before the year ending.
2. No central tax should be outstanding.
3. Original copy of the certificate should be attached with the application.

If tax assessing officer is satisfied with the application he can cancel the certificate.

**Assessment procedure**

CST is implemented on the sales of interstate trade. This tax is imposed by central govt. but is collected by state govt.

**Assessment procedure—** The procedure of assessment of a dealer under CST is as follows –

1. Tax Assessment authority
2. Submission, of the statement of sales
3. Information (particulars) to be supplied in the Return
4. signature upon the return and its verification
5. Document to be enclosed with the return
6. Duration of sales
7. Proceeding of tax Assessment

**Penalty and Prosecution**

Any law can legally be effective if and only if persons pertaining to that law follow the rules laid down under that law. Even if the person doesn't follow the rules, then to punish or penalize him are associated with law. Penalties and prosecution motivates a person to follow the rules laid by law.

**Penalties and prosecution**

Under sec. 10 or CST Act, only dealer, may be fined in the following conditions, or may be prosecuted or may both be penalized as well as prosecuted.

1. Furnishing wrong declaration
2. Giving false information regarding goods mentioned in the certificate of registration
3. Not registration himself
4. Submitting false declaration
5. Collecting the tax unlawfully
6. Not collecting tax in prescribed way
7. Furnished false information regarding registration
8. Goods not used for the prescribed purposes



**Determination of Gross Turnover and Taxable Sales**

Central Sales Tax is imposed on the Taxable turnover. Taxable turnover here means that net sales which are done under interstate sales. To calculate the taxable interstate sales the following method is adopted.

1. Compute the Gross Turnover,
2. To deduct sales other than interstate sale, to know the total interstate sales.
3. To deduct the deductions, to know the net interstate sales.
4. To deduct amount of CST from the net interstate sales.

After doing all this, we get the amount of taxable turnover.

**Note:** If in the sales amount tax is not included there is on need of deducting tax. The amount of net interstate sales will be considered as taxable turnover.

**List of exempted goods in the state**

Goods exempted in the state, also exempt from central sales tax point of view. Some goods are declared exempted from VAT in M.P. summarized list is given below for convenience to solve the problems -

1. Cloth, Rajai, Pillow covers, Towel, Bed Sheets, Umbrella etc.
2. Sugar, Gur, Mishri, Batasha
3. Salt any type
4. Food grains (Wheat, Rice etc.)
5. Pulses, Separated pulses, Branded Rice
6. Agricultural equipments (notified)
7. Books, slate, Chawlk etc.
8. Flour, Maida, Suji, Besan
9. Liquor (country or Foreign)
10. Vegetables Fruits, Eggs Meat
11. Kum-Kum, sindoor, Bindiya Bichiya kajal, Mangalsutra
12. Cattle feed, Poultry feed
13. Papad, Badi, Finger Saboodana, Singhada etc.
14. Agarbatti
15. Charcoal & Fire wood
16. Poha, Murmura
17. Betel Leaves
18. Certified seeds, Truthfully treated seeds
19. Condoms and contraceptives.

Note – For detail please see the chapter ‘Exempted Goods, under M.P. VAT section’.

**Chart – Computation of Taxable Turnover under C.S.T**

1. <b>Gross Sales</b> – Except News Papers, Stamp, Securities and goods sent to branch at or consignment		.....
	<b>Gross Sales</b>	.....
<b>2. Less – Items not taxable under Central Sales tax</b>		
a. Sales within state (M.P.) Taxable & Tax free both	.....	
b. Export to foreign countries	.....	
c. Sales outside state	.....	
	<b>Total Inter State Sales</b>	.....
<b>3. Less – Deductions</b>		
a. Sales Return within six months	.....	
b. Railway freight and delivery changes	.....	



c. Cash discount	.....	
d. Subsequent sales	.....	
e. Tax free goods to other state	.....	
f. Sales to special Economic Zone.	.....	
	<b>Actual Inter State Sales</b>	.....
<b>4. Less – Central Sales Tax</b>		.....
As per prescribed rates (Table given below)		.....
	<b>Taxable turnover</b>	.....

**Central Sales Tax Rates**

<b>1. Sales to Government</b>	
a. Tax free goods	a. Nil
b. Taxable goods	b. VAT rate (1%, 5%, 13%)
<b>2. Sales to Registered dealer</b>	
a. Tax free goods	a. Nil
b. On Form 'C' (see note)	b. 2% or actual rate whichever is less
c. Goods without Form 'C'	c. VAT Rate
<b>3. Sales to Unregistered dealers</b>	
a. Tax free goods	a. Nil
b. Taxable goods	b. VAT rate (1%, 5%, 13%)

**Note – If State rate is upto 2%, Form 'C' not required**

**Special points should be noted**

- All types of sales should be included while computing gross sales in first stage either a sale taxable under Central Sales Tax.
- Sale of News papers, shares and securities should be excluded in first instance, because these are not covered under the definition of Goods'.
- Goods sent to branch or agent outside the state are not included in gross sales, because it is transfer of stock, not sales, so it is not interstate sales. if the branch or agent sells these goods, it will pay tax on sales of that state.
- Exports, sales inside the state (M.P.) sales of exempted goods, sale outside M.P. will be deducted from Gross sales to arrive the total interstate sales.
- If there is no clear indication that a particular good where sold, with in state or outside the state? In such case it will be assumed that such goods inside state and central sales tax liability will not arise, the provincial tax will be paid accordingly.
- The following deductions will be allowed from Total Inter State Sales –
  - a. Sales return of goods sold in inter-state trade within in six months.
  - b. Freight and delivery charges separately charged on goods sold to other states.
  - c. Cash discount allowed on interstate sales.
  - d. Goods transferred by transfer of documents when such goods are in transit, i.e. subsequent sales.
  - e. Goods sold to other states, but exempted in M.P.
- After deductions we will find the net interstate sales which are taxable under C.S.T. The central sales tax liability will be calculated on such sales in the following manner –

**1. If the sales figures are included tax amount**

$$\frac{\text{Taxable interstate sales (including tax)} \times \text{Rate of C.S.T. Applicable}}{100 + \text{Rate}}$$

**2. If the taxable sales (tax excluded) are given -**

$$\frac{\text{Taxable sales} \times \text{Rate of C.S.T. Applicable}}{100}$$

100





- In case of without Form 'C' actual rate of state is applicable.
- If Form 'C' not submitted, it is assumed that sales made to unregistered dealer and taxable goods will be taxed at state rate.
- If there is no clear information that the registered dealer has submitted or not submitted Form 'C' in such case, purchase will be treated as unregistered dealer and state rates will be applicable.
- If state rate is below 2% actual rate shall be applied, even form 'C' not submitted.

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## UNIT-IV VALUE ADDED TAX

**Meaning of VAT:** The value added tax has been levied on the value added by the dealer. The value added means the selling price of goods (excluding the amount of tax) less the cost of goods sold.

VAT allows set off for taxes paid on preceding purchase

Vat allows credit for tax already paid on its purchase of business inputs.

### Salient Features of VAT System

- 1) **Levied by State Govt.** – State Government Levied Sales Tax or Commercial Tax.
- 2) **Indirect Tax** – Its ultimate burden bears the last purchases i.e. consumer.
- 3) **Multi Point Tax** – Sales tax was single point tax, while VAT is multi point tax. It is recovered on each stage of sale on Value Addition.
- 4) **Tax on Value Addition** – Selling price – Purchase price = Difference shall be called value addition.
- 5) **Amount of VAT should be shown separately in Invoice** – According to VAT Law the amount of tax should be shown separately in the invoice from Input Tax Rebate point in view.
- 6) **Composition Facility** – In the VAT system composition system is adopted in stead of licensing. Dealer whose turnover is not more than a prescribed limit can opt. The composition dealer shall not be eligible to set Input Tax Rebate in respect of tax already paid at the time of purchase.
- 7) **Registration** – VAT System every dealer should get registered if his annual Gross Turnover crosses a prescribed limit, i.e. Rs. 5 Lakh.
- 8) **Self Assessment System** – If the dealer pays tax regularly and furnished returns by due dates shall get advantages of self assessment in the VAT System.
- 9) **Administrative set up** – The commercial tax authorities are holding the matters of VAT.
- 10) **Tax on Inter State sales** – VAT is applicable on sale or purchase regarding sale with in state.

### Merits or Advantages of VAT

- (1) Not cascading effect
- (2) Easy implementation
- (3) Lesser cost of compliance
- (4) Less complications
- (5) Minimum possibilities of litigation
- (6) Facility of Input tax Rebate
- (7) Check on tax evasion
- (8) Limited self assessment
- (9) Payment in various stages
- (10) Restriction on under relaxations and exemptions.

### Demerits or Limitations of VAT

- (1) Long term process
- (2) Difficulty in set off
- (3) Problem in refund
- (4) Multiple rates of tax
- (5) Accounting problems
- (6) Conflict between CST & VAT
- (7) Higher price
- (8) Unresolve problem of CST
- (9) More formalities
- (10) Corruption

### Main features of VAT in M.P. –

- 1) Scope of the VAT Act
- 2) Dealers covered by VAT (Sec. 5) – Under VAT Act all registered dealers (Except composition dealers) and the dealers having turnover exceeding the threshold limit of Rs. 5 lacs will be liable for VAT as per rates applicable.
- 3) Threshold limit of registration
- 4) VAT is payable on value addition
- 5) Method of charging VAT
- 6) Taxable events
- 7) Transactions not liable to VAT



- i) Inter state trade
- ii) Export out of India
- iii) Sale of Goods outside the state
- iv) Transfer to selling agent
- v) Special Economic Zones (SEZ)
- vi) News paper, shares, securities
- vii) Tax free goods
- 8) Sale price
- 9) Sales return
- 10) Tax paid goods
- 11) Tax on packing material
- 12) No multiplicity of rate of tax
- 13) Input Tax Rebate (ITR) – ITR shall be available only to a registered dealer.
- 14) Assessment – Under VAT Act all the registered dealers will be deemed to be assessed.
- 15) Composition of tax – The composition fees shall be payable @1/2% in respect turnover of resale of goods and @4% on turnover of own manufactured goods.

**Method of VAT Charging –**

There are two major and effective systems or method for calculating VAT liability of the dealer –

**I) Subtraction method –**

In subtraction method VAT is charged on difference between sale price and purchase price.

In other words Value Added Tax has been levied on the value added by the dealer. The Value

Added means –

Selling price of goods purchased from registered dealer .....

Less – Cost of goods sold (-) .....

**Value Added** .....

**II) Tax Credit Method –**

In this system firstly the dealer charge VAT on selling price and there after gets input tax rebate in respect of goods purchased from registered dealer. In present VAT system w.e.f.

01.04.06 the tax credit method is adopted for charging VAT.

Note: If sale figures given in the question are excluding tax then tax shall be calculated separately by the following formula =  $\frac{\text{Taxable Sales} \times \text{Rate}}{100}$

**DEFINITIONS**

**Business - Sec. 2 (D)**

**Business is basis of VAT. Business includes-**

- (a) Any trade, commerce, manufacture or any adventure or concern in the of trade, commerce or manufacture. Whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such commerce, manufacture, adventure or concern.
- (b) Any transaction of sale or purchase of goods in connection with or incidental or ancillary to the trade, commerce, manufacture, adventure or concern

**Place of Business - Sec. 2 (Q)**

Place of business means any place where a dealer purchases or sells a goods or stores goods or keeps accounts of his purchases or sales or both and a includes-

- (i) The place of business of an agent where a dealer carries on business through an agent;



(ii) Any place or building whether any business is carried on therein not, in which the person carrying on the business, states that any his books of accounts, documents, stocks or other things, relating his business are kept.

(iii) Any vehicle or vessel or any other carrier where goods or stored used for transporting goods

#### **DEALER - SEC. 2(I)**

Dealer means any person who carries on the business of buy, selling supplying or distributing goods, directly or otherwise, whether for cash, or for deferred payment or for commission, remuneration other valuable consideration.

#### **GOODS - SEC. 2 (M)**

Goods means all kinds of movable property other than actionable claims, newspapers, stocks, shares, securities or Government stamps and includes all material, articles and commodities, whether or not to be used in the construction, fitting out, improvement or repair of movable or Immovable property and also includes ail growing crops, trees, plants and things attached to, or forming part of the land which are agreed to be severed before the sale or under the contract of sale;

#### **DECLARED GOODS - SEC. 2 (J)**

Some goods are declared as a special importance in course trade and commerce u/s 14 of Central Sales Tax Act. The state go1 on such goods not more than 5% under the some restrictions.

#### **TAX PAID GOODS [SEC. 2 (Y)]**

Under VAT Act only the goods specified in Part III of Schedule II shall be treated as tax paid goods.

#### **PURCHASE PRICE - SEC 2 (S)**

Purchase price includes: Consideration, Packing, Transport Cost, Trade Commission, Handing Charges, Insurance Premium, Local Taxes, Excise Duty, Cost of Packing material, Other Cost

#### **SALE - SEC. 2 (U)**

Sale means any transfer of property in goods for cash or deferred payment or other valuable consideration and includes-

(i) A transfer, otherwise than in pursuance of contract, of property in any goods for cash, deferred payment or other valuable consideration;

(ii) A transfer of property in goods whether as goods or in some other form, involved in the execution of a works contract;

(iii) A delivery of goods on hire purchase or any system of payment by installments;

(iv) A supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;

(v) A supply, by way of or as part of any service or in any other manner whatsoever, of goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration;

(vi) A transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

#### **SALE PRICE - SEC. 2 (V)**

Sale price means the amount payable to a dealer as valuable consideration for the sale of any goods less any sum allowed as cash discount accord ordinary trade practice but inclusive of any sum charged for anything done dealer in respect of the goods at the time of or before delivery thereof other than the cost of freight or delivery or the cost of installation when such cost is see; charged.



### **TAXABLE TURNOVER - SEC. 2 (X)**

Taxable turnover in relation to any period means that part of a dealer's turnover for such period which remains after deducting therefrom-

- (i) The sale price of goods declared tax free under Section 16.
- (ii) The sale price of goods which are in the nature of tax paid (petrol, Diesel etc.) in the hands of such dealer;
- (iii) The amount arrived at by applying the following formula-

$$\frac{\text{Rate of tax} \times \text{Aggregate of sale prices}}{100 + \text{Rate of tax}}$$

Provided that no deductions on the basis of the above formula shall be if the amount by way of tax collected by a registered dealer, in accordance with the provisions of this Act, has been otherwise deducted from the aggregate of sale prices.

### **IMPORT (SEC. 2 - N)**

Import means the bringing or causing to be brought of goods in. State of Madhya Pradesh from any place outside the State;

### **INPUT TAX (SEC. 2-O)**

Input tax means an amount paid or payable by way of tax under Section 9 by a registered dealer in respect of the purchase of any goods specified in Schedule II, to a selling registered dealer and who is liable to pay tax under the said Section on the sale of such goods;

### **MANUFACTURE (SEC. 2 - P)**

Manufacture includes any activity that brings out a change in an article or articles as a result of some process, treatment, labour and results in transformations into a new and different article so understood in commercial parlance having a distinct name, character and use, but does not include such activity of manufacture as may be notified.

### **COMMERCIAL TAX OFFICE (SEC. 2 - F)**

Commercial Tax Office means an office of any officer appointed under Section 3 of this Act;

### **COMMERCIAL TAX OFFICER (SEC. 2-G)**

Commercial Tax Officer means a Commercial Tax Officer appointee under Section 3 and includes an Additional Commercial Tax Officer.

### **COMMISSIONER (SEC. 2-H)**

Commissioner means the Commissioner of Commercial Tax appointee under Section 3;

### **DEPUTY COMMISSIONER (SEC. - K)**

Deputy Commissioner means a Deputy Commissioner of Commercial Tax appointed under Section 3 and includes an Additional Deputy Commissioner of Commercial Tax;

### **DOCUMENT (SEC. - 2-1)**

Document means title deeds, writings or inscriptions and includes record" and "electronic form" as defined in the Information; Act, 2000 (21 of 2000) and the like that furnishes evidence:

### **VAT (SEC. A-L)**

VAT (Value Added Tax) means tax on sale or purchase of goods payable under this Act.

### **YEAR (SEC B - A)**

Year means the twelve months ending on the 31st day of March.



**REGISTRATION OF DEALERS**

- (a) Compulsory registration
- (b) Voluntary registration

**Compulsory Registration**

- Every dealer whose turnover during 12 months immediately preceding the commencement of this Act exceeds Rs. 5 Lakhs shall get registered within 30 days of commencement of this Act, else if his turnover in a year first exceeds Rs. 5 Lakhs he has to get himself registered.

**Procedure for Registration**

- (a) Application: - In form 6 to the Registering Authority within 30 days from the date on which the limit exceeds.
- (b) Signed & the required documents should be attached
- (c) Grant of Registration certificate:- In form 7
- (d) After granting certificate, the authority can visit the place of business to verify correctness of the details. The a/cs & other support documents can be asked and if still unsatisfied the Registering Authority may proceed for cancellation of registration.

**Voluntary Registration u/s 17**

- (i) Who is not liable to pay tax can obtain registration voluntarily u/s 17 (c).
- (ii) Intends to establish manufacture of goods for sale of value exceeding Rs. 1 lakh p.a. & is registered under Industrial department of the State Govt. u/s 17(d)

**Registration Certificate**

- Two certified copies of certificate for every additional place of business is to be issued.
- The certificate is to be displayed at each POB.
- If lost, destroyed, defaced or becomes unintelligible, duplicate can be issued on an application with a fee of Rs. 500.
- Certificate can be amended on an application
- If Registering Authority is not satisfied about the correctness of the application for amendment he can reject it within 30 days of the application & intimate to the dealer within 7 days of rejection else the dealer is entitled to have amended certificate.

**Cancellation of registration:** On the basis of application from dealer in Form 6 or by the Commissioner if

- (a) Dealer discontinues / transfer his business
- (b) Liability of tax ceases for 2 consecutive years.
- (c) If the certificate is granted by mistake.
- If on the application for cancellation no order is passed/communicated to dealer within 6 months it is deemed to be cancelled and the dealer is required to submit the certificate along with the certified copies within 7 days from the date of deemed cancellation.
- A reasonable opportunity to be heard shall be given to the dealer if the Commissioner wants to cancel registration on the following grounds -
  - (a) Arrears of Tax/Penalties/ Other dues
  - (b) Any other reason (to be recorded in writing).

**GUARANTEE U/S 24A**

- No security can be demanded at the time of registration.
- If dealer defaults the Commissioner can ask for the security for proper realisation of tax.
- The security for proper realisation of tax



- The security cannot exceed the highest amount of tax paid / payable by such dealer in any quarter or in form of FDR or security bonds which shall be held for 2 years.

- The security can be forfeited by the Commissioner.

(a) For collection of tax, interest or penalty.

(b) If the dealer has misused any certificate or declaration or failed to keep/retain them in the prescribed manner.

### **TAX PAYER IDENTIFICATION NUMBER (TIN)**

- New TIN of 11 digit are issued against old reg. no.

- TIN is to be mentioned on all challans to banks.

### **EXEMPTED GOODS UNDER M.P. VAT**

#### **Definition of Tax free goods (U/S-16)**

Under section – 16 the following provisions made to exempt goods from commercial tax –

1. No. Tax shall be payable on the sales/purchases of goods, specified in the second column of schedule. I.

2. The state government may in respect of any goods, by notification amend schedule-I.

Schedule – I of M.P. Vat Act u/s 16. Contain list of 87 such goods which are exempted. The state government amends this list from time to time.

#### **Important Points regarding exemption under section -16(A) by notification –**

Following point should be kept in view in respect of exemption-

1. Exemption may be fully or partly.
2. Exemption for a certain period.
3. Notification is effective from the date of its publication
4. Exemption may be retrospective/prospective effect
5. Withdrawal of exemption

Schedule – I Tax Free Goods under VAT (effective for 2010-11)

#### **Description of goods**

1. Agricultural equipment – (Notified) list given ahead separately.
2. Aids and implements used by handicapped persons, that is to say –
  1. Artificial limbs
  2. Crutches
  3. Calipers
  4. Correct shoes
  5. Various kinds of spinal braces
  6. Wheel chairs
  7. Denis brown splints
  8. Various kinds of splints
  9. Braille (Various type of Braille equipments)
  10. Hearing Aids
  11. Tricycle for handicapped persons.
3. Aquatic feed, poultry feed and cattle feed, including feed supplements, concentrates and additives, grass, hay, straw, de-oiled cake including soya meal and cotton seed oil cake.
4. Betel leaves
5. Books, periodicals, journals, maps, chart, globe, panchangs and almanacs.



6. Charakha, Amber Charakha, handlooms, implements used in production of khadi/khaddar and parts thereof, handloom, fabrics, khadi cloth and Gandhi Topi, garments and made-ups of khadi/khaddar, cotton/polyester and roving.
7. Charcoal
8. Food grains, cereals and pulses
9. Condoms and contraceptives including contraceptive pills
10. Cotton and silk yarn in hank.
11. Curd, lussi, butter milk and separated milk
12. Earthenware including clay lamps made by (potters)
13. Electrical energy
14. Firewood excluding casuarinas and eucalyptus timber
15. Fishnet and Fishnet fabrics
15. A. All kind of footwear/chappals and straps thereof when manufactured in State of Madhya Pradesh and sale price (maximum retail price printed on the label) of which does not exceed Rupees Two Hundred and Fifty.
16. Fresh milk and pasteurized milk.
17. Fresh plants, samplings and fresh flowers.
18. Fresh vegetables and fresh fruits include potato, onion and sugarcane
19. Garlic, Sighada and ginger excluding dried ginger.
20. All kinds of bangles excluding those made of ivory or precious metals
21. Human blood and human blood plasma.
22. Indigenous handmade musical instruments, hand made paper, hand made soap, Dantamajan.
23. Kumkum, bindi, alta, sindur, kajal, mehendi, bichhia, mangalsutra, rakhi and ornaments of kathir, german silver or aluminum.
23. (a) Lac and Shellac
24. Meat, fish, prawn and other aquatic products, eggs, livestock, animal hairs and fish/prawn/shrimp seeds.
25. National Flag, Niwars
26. Organic manure including dung (Gober) and products of dung and bio-fertilizer.
27. Cartridge paper, non-judicial and judicial stamps of all types used for payment of stamp duty or court fees, postal items and philatelic stamps
28. Raw wool (except branded wool)
29. Semen including frozen semen
30. Cocoons of all types including silk worm laying and raw silk
31. Slate, Slate pencils and chalks sticks
32. Tender green coconut
33. Toddy, Neera and arak
34. All types of bread
35. Salt
36. Water other than –
  - (i) Aerated, mineral, distilled, medicinal, ionic, battery, demineralised water and
  - (ii) Water sold in sealed container
37. All certified and truthfully treated seeds, other than methi, dahia and the seeds
38. Papad, badi, hand made and unbranded
39. Sirali, Bageshi, barro, date leaves, baskets, tattas, fans, curtains, mattings and other goods made thereof, handmade sooma and germa, handmade barathi of lether, utensils and decorative articles made only of bamboo and fibrous plants like sabai/shisal.
40. Bamboo matting.
41. Muddas made of sarkanda, phool buhari jhadoo
42. Leaf plates and cups – pressed or stitched
43. Poha, murmura and lai





44. Husk of oil seeds, grains and pulses and bran of cereals
45. Handicrafts, incense sticks (agarbatti, Dhoopkadi, Dhooppatty, Hawan Samagri, Lobhan, Gugal.)
46. Flour, atta, maida, suji, besan, rawa, daliya and chuni
47. Country liquor and foreign liquor
48. Fabrics, Towel, (Sale price upto Rs. 100), Gamcha, Bhaddar, Quit cover, Bed cover, handkerchief and unbranded pillow covers
49. Sugar khandsari, gur, jiggery and edible variety of rab gur
50. Omitted
51. Yagyopavit or janeu
52. Kite
53. Sabai grass and it's rope
54. Canteen stores
55. Animal shoe-nails
56. Basket made of bamboo
57. Camphor
58. Cooked dalia
59. Cow urine and its products
60. Edible gum
61. Ghamela, tasla and tagadi rnade of iron and steel.
62. Hand made candles
63. Hath ka kada (retail price of which does not exceed Rupees Five hundred)
64. Kerosense lantern, kerosene lamp, kerosene chimney and parts thereof.
65. Kirpan
66. Misri, batasha
67. Prasad,/roistered/fried grams
68. Prasad, bhog or mahabhog given by religious institutions.
69. Religious pctirues not for use as calendar
70. Sattu, murmura (ready to eat food) and panjiri
71. Renewable energy devices or equipments, including their parts.
72. Sprinklers and equipments used in drip irrigation (other than pipe and motor)
73. Tatpatti
74. Umbrella and parts thereof
75. Unbranded broomsticks
76. Good sold by the Madhya Pradesh State Electricity Board or any one of the companies.
77. Atta chakki
78. Bagasee
79. Feeding bottles and nipples
80. Kerosense wick stove and
81. Raw potato chips, sewai and finger (made by small industries)
82. Sabudana
83. Wet dates
84. Isabgol
85. Products of Research and Training Institutes.

### RATES OF M.P. VAT

Tax rates of M.P. value added Tax are given under schedule – II which is divided in four parts according to rates of Tax on various taxable goods applicable.

The rate Applicable under VAT schedule II –

Part – I → 1% Tax rate applicable on goods which comes under part-I

Part – II → 5% Tax rate applicable on goods which comes under part-II



Part – III →

S.No.	Name	%
1	Diesel	23
2	Petrol	27
3	Aviation turbine fuel	23
4	Raw Opium	13
5	Tendu leaves	25
6	Natural gas	13
7	Timber	13
8	Kerosene	5
9	Old & Second hand motor car	1.5

Part – IV → 13% Tax Rate applicable on goods which comes under part IV.

**TAXABLE TURNOVER UNDER VAT & VAT PAYABLE**

The Turnover under M.P. VAT shall be computed in the following manner –

- I. Gross Turnover – Firstly sums of all types of sales of relevant period (except Newspaper, stamps, shares and securities) and cash discount and freight separately charged shall be reduced from sale price (separate deduction shall not be allowed)
- II. Deductions – Following deductions shall be allowed
  - 1. Sales return with in 6 months.
  - 2. Tax free goods
  - 3. Tax paid goods
  - 4. Inter state sale
  - 5. Sales out side M.P.
  - 6. Export out of India
  - 7. Send to Branch/Agent
- III. If Tax include in the sales price shall be deductible from Gross Turnover.
- IV. After the deduction of Tax and sales except in M.P. output comes is Taxable Turnover.
- V. Tax Payable – VAT shall be calculate on Taxable sales during the period and then in second stage Input Tax Rebate Shall be deducted in respect of tax already paid to registered dealer of M.P. Net result shall be net VAT payable by the dealer.

**Computation of Taxable Turnover under VAT**

<b>Ist Step :</b>	<b>Gross Turnover (G.T.O.)</b> Gross turnover means a sum of all types of sales, i.e. taxable sales, exempted sales, interstate sales, export etc.	.....
<b>Note :</b>	(1) Cash discount given in the invoice itself shall be excluded from the sale price and any other ex-factor discount, incentive or rebate shall not be deductible from the sale price. (2) Freight and delivery charges separately charged shall be reduced from sale price.	
<b>IInd Step:</b>	<b>Deduction from G.T.O.</b>	
	(1) Sales Return within six months	.....
	(2) Sales of tax paid goods, i.e. kerosene under public distribution system Aviation turbine fuel, Raw opium, natural gas & Second hand cars.	.....



(3) Sales of Tax free goods (e.g. sale of cloth, sugar, salt, books, agricultural equipments, foods grain, pulses etc. as per schedule I of tax free goods.	.....	
(4) Inter State Sales	.....	
(5) Sale outside the state/consignment Branch Transfer	.....	
(6) Export out of India	.....	(-) .....
	<b>Taxable Turnover Including Tax</b>	.....
<b>Less:</b> VAT on taxable sale (1%, 5% or 13% as case may be)		
<u>Taxable Sales Including Tax x Rate of VAT</u>		
100+Rate of VAT		(-) .....
	<b>Taxable Turnover</b>	.....



## UNIT-V

### PAYMENT AND COLLECTION OF M.P. VAT

#### Payment of Tax by Dealers –

From the point of view of tax payment, the dealers have been divided into the following categories –

- 1) Dealers liable to pay tax more than 15000 per quarter or Rs. 60000 per annum but not exceeding Rs. 25 lacs per annum.
- 2) Dealers liable to Pay Tax more than Rs. 6.25 lacs per quarter or Rs. 25 lacs per annum.

#### Method of Payment –

- 1) Payment to Govt. treasury or State Bank
- 2) When the dealer is Government
- 3) Prescribed Form
- 4) Where payment is made by cheque or bank draft
- 5) Challan shall be directly accepted
- 6) Distribution of copies of challan
- 7) Direct payment to commercial tax officer
- 8) Fraction of a rupee to be rounded
- 9) Reconciliation of payments

#### Payment and recovery of tax and other dues – Sec. 24

- 1) Payment of tax before furnishing of the return
- 2) In case of Revised Return
- 3) In case of Government
- 4) Short payment of tax, interest and penalty
- 5) Payment stayed by appellate authority
- 6) Payment in installments
- 7) Failure of the dealer in respect of payment of installments
- 8) Relaxation and the State Government
- 9) Remission of interest payable
- 10) Penalty in case non-payment of tax
- 11) Recovery from defaulter

#### Refunds – Sec. 37

- 1) Excess payment by the dealer
- 2) Deposited due to an error
- 3) Reduction in tax liability due to appeal or revision
- 4) Use of refundable amount to recovery
- 5) Payment of refund
- 6) Refund in respect of declared goods
- 7) Power to withhold refund in certain cases
- 8) Refund payment order
- 9) Refund adjustment order
- 10) Submission of refund adjustment order with the return
- 11) Order sanctioning interest on delayed refunds
- 12) Interest payment order

#### INPUT TAX REBATE & INVENTORY REBATE

A registered dealer is eligible to get input tax rebate in respect of tax paid on purchases from registered dealers.



Under M.P. VAT act, input tax rebate (ITR) shall be available for full amount of tax paid on purchase of raw material, packing material incidental goods, consumable stores & plant & machinery.

### MAIN PROVISIONS & RULES REGARDING (ITR) Input Tax Rebate)

1. **Eligible dealer for input tax Rebate-** ITR shall be available only to a registered dealer. It shall not be available to an unregistered dealer & dealer who have opened for composition.
2. **Goods entitled for ITR-** ITR shall be available in the following cases-
  - Goods purchased for resale, packing material, plant machinery etc.
3. **ITR shall not be available in the following cases-**
  - Free sample or gifts. Tax paid goods, like petrol, diesel, purchase from composition dealer purchase from unregistered dealer etc.
4. **ITR in respect of plant & machinery -** Plant & machinery, equipments & parts thereof shall also be eligible for input tax rebate
5. **ITR in case of sale through commission agent-** ITR shall also be available in respect of such transfer of goods to commission agent.
6. **ITR in case of manufacture of goods for others on job basic-** ITR shall be available even in case of job processing/ manufacturing, because there is no condition for sale by the manufacturer himself.
7. **Availability of ITR-** ITR shall be available immediately on purchase of goods & one need not to wait till disposal of said goods.
8. **How and when to claim ITR-** In case of a dealer liable to pay quarterly tax, the ITR is to be claimed and adjusted against the tax payable for each quarter.  
In case a dealer is liable to pay monthly tax, the amount of ITR . Calculated for each month and should be adjusted against the tax pc that month.  
If ITR in respect of any month/quarter is not adjusted in the quarter due to any reason, it can be adjusted against the tax payable next month/quarter.  
In case of goods purchased in one financial year, but received in the next financial year, ITR should be claimed in the financial year in which such purchases are recorded
9. **How to calculate the ITR-** ITR need not be calculated on one basis. Rather it will be calculated on total sales & total purchase basis.
10. **Carry forward/ refund of ITR-** Except in case of ITR pertaining to export of goods or pertaining and machinery, refund of ITR shall not be allowed in the same year.  
The amount of ITR shall be adjusted towards the tax payable dealer under this Act or under CST Act. But, there is no provision for adjustment of ITR against the entry tax payable by the dealer.  
Any unadjusted ITR shall be carried forward to the next year. The ITR dealer remains unadjusted even after 2 years from the close of the relevant financial year shall be granted by way of refund.

### Composition of Tax (Sec. 11)

A registered dealer purchasing taxable goods from another such dealer within the State after payment to him of tax and / or purchasing Tax free goods and whose turnover in a year does not ordinarily exceed such limit as may be prescribed (Rs. One Crore), for payment, in lieu of tax payable by him a lump. The composition fee shall be as under –

- i) In case of manufacturer 5%
- ii) In case of trader.

The composition fees in case of dealer has been reduced by 1/2%.

- 1) Eligible dealers
- 2) Conditions for Composition
- 3) Option to dealer



4) Application for Composition

5) Rate of Composition

The lumpsum shall be payable on the goods taxable other than petrol, Diesel, Tendu Patta, Timber and Opium. The lumpsum payable by a registered dealer shall be as under –

i) 1/2% of turnover of resale of goods purchased; and

ii) 4% of goods manufactured

iii) 3% of turnover in case of cooked food.

6) Payment of Lumpsum

7) Rubber stamp on issued invoice

Goods sold by a dealer opting for composition of tax

8) Maintaining of books

9) Recovery not allowed

10) Not eligible for Input Tax

11) Purchases from a dealer who has opted for competition

### **Taxing Authorities and other Officers –**

There may be appointed a person to be the Commissioner of Commercial Tax and the following category of officers to assist him, namely –

a) Additional Commissioner of Commercial Tax;

b) Director of Commercial Tax;

c) Deputy Commissioner or Additional Deputy Commissioner of Commercial tax;

d) Assistant Commissioner or Additional Assistant Commissioner of Commercial tax;

e) Commercial Tax Officer or Additional Commercial Tax Officer;

f) Assistant Commercial Tax Officer; and

g) Taxation Assistant (Inspector of Commercial Tax).

### **Appeals and Revision –**

1) Appeal against which order

2) Payment of tax or penalty before appeal

3) Time period for Appeal

4) Submission of application regarding appeal – Submission of the appeal application

5) Stay of recovery of the remaining amount

6) Disposal of Appeal, hearing and decision

7) Notice to person likely to be affected adversely

8) Supply of copy of order to the appellant or applicant and the officer concerned

9) Period for Decision on appeal

### **Procedure of Appeal**

i) Appeal can be made before appellate Board if assessee is not satisfied with the decision of deputy commissioner (appeals)

ii) Such appeal can be presented within 60 days of order.

iii) One has to deposit, part of tax payable.

No second appeal shall be admitted by the Tribunal unless, out of the total balance due from the dealer after the order passed in first appeal, 20% of such balance is paid and the memorandum of appeal is accompanied by a satisfactory proof of payment of such amount.

iv) To submit application in duplicate with form 43.

v) Rest of the procedure is same as appeal before deputy commissioner.



### Fees for appeal or revision

**First Appeal Fees** – Court fee stamps of Rs. 10 or 0.1% of the extra demand as per order appealed against, whichever is more, subject to maximum of Rs. 100 is to be affixed on original copy of Form 42.

**Second Appeal Fees** – On memorandum of second appeal Court fees stamps of Rs., 30 or 0.1% of the total balance due after first appeal order, whichever is more, subject to maximum of Rs. 100 is to be affixed on original Form 43.

### Power of revision by Commissioner – Sec. 47

The commissioner may revise an order in the following conditions –

- (a) Either on his own motion, or
- (b) On an application by a dealer or person made within the prescribed period from the date of order.

### Difficulties in Implementation of VAT –

VAT system is adopted in M.P. in 2006. Thought it is a good tax system on selling and purchasing of goods rather than Commercial Tax. However it is not error less system. Some problems arose due to VAT.

- 1) Long term process
- 2) Difficulty in set off
- 3) Problem in refund
- 4) Multiple rates of tax
- 5) Accounting problems
- 6) Conflict between VAT & CST
- 7) Higher prices
- 8) Unresolvable problem of CST
- 9) More formalities
- 10) Corruption

## SERVICE TAX

### Introduction and Objects

Service tax is tax on services which are taxable under Service Tax Act. It is an indirect tax levied by Central Govt. person who provides the service is liable to pay service tax at prescribed rate; however he can realize it from the user of only three services – (i) Share broking, (ii) Telephone services and (iii) General insurance business. Thereafter number of taxable services increased rapidly. In the year 2011-12 about 120 services were covered under service tax.

### Introduction of Service Tax –

1. Imposition – Service tax was imposed firstly in 1994 by Finance Act 1994. It was introduced on 01-07-1994 – In the first year, service tax was introduced on Brokerage charged by stock broker or sub-broker registered with SEBI, Gross telephone Bills and Insurance premium in respect of general insurance.
2. Taxable Service – Service tax is payable on 'taxable service'.
3. Taxable event of service tax – If levy of service tax on a particular service comes into effect on a particular date, that service will not be taxable if rendered before that date, irrespective of when bills are raised or payment is made.
4. Number of Taxable Services – Service tax was levied on only three services in 1994. These were share broking, telephone and general insurance. Thereafter a large number of services have been included in the list of taxable services from time to time. The figure of taxable services was 123 in the year 2011-12 but at present all type of services have been taken under service tax criteria.
5. Rate of Service Tax – Service tax was payable @ 5% at first time in 1994. At present its gross rate is 12.36% for the year 2013-14 and onwards in the year –



1994 – 2003	5%
2003 – 2004	8%
2004 – 2006	10%
2006 – 2009	12%
2009 – 2012	10%
2012 – 2013 and on wards	12%

3% education cess is also charged on basic rate, so effective rate of services tax is 12.36%.

6. Collection from Service Tax – Service tax become a major source of revenue for central government. Collection from service tax is rapidly increasing.
7. Applicability of Service Tax – Service tax is payable only if service is provided in India. Thus, in following cases, there is not service tax liability –
  - a) Technical consultancy provided by foreign collaborate. Such service is not provided 'in India'.
  - b) If Indian service provider provides.
  - c) If Indian service provider exports his services.
8. Value of taxable service for charging service tax – Service tax is payable on 'Value of services'.
9. No tax if service provided free – Even if a service is taxable, there will be no service tax if service is provided free, as value of service tax will be zero.
10. Person who has to pay service tax – Every person providing taxable service to any has to pay service tax at the prescribed rates.
11. Exemption to small service providers – 100% exemption from service tax has been granted to a provider of taxable service when aggregate value of taxable services rendered by him from one or more premises, does not exceed Rs. 10 lakhs in the preceding financial year 2013-14.
12. When Service Tax shall be payable – Service Tax shall be payable in the following situations whichever is occurred earlier –
  - i) Date of Service provided, or
  - ii) Date of Invoice, or
  - iii) Date of Payment received

### Objects of Service Tax

- 1) To expand the scope of Taxation
- 2) To get more Revenue
- 3) To apply the principle of justice
- 4) To take contribution for national development
- 5) Check on Luxuries and inequality of wealth

### Classification of Services

#### I) Services exempt from Service Tax (Negative list)

- 1) Service provided by Government/local authority
- 2) Services provided by RBI
- 3) Services by a foreign diplomatic mission located in India
- 4) Services relating to agriculture or agriculture produce
- 5) Trading of goods
- 6) Any process amounting to manufacture or production of goods
- 7) Selling of space or time slots for advertisement other than advertisements broadcast by radio or television.
- 8) Service by way of access to a road or a bridge on payment of toll charges.
- 9) Betting, gambling or lottery
- 10) Admission to entertainment events or access to amusement
- 11) Transmission or distribution of electricity
- 12) Services relating to education
- 13) Service by way of renting of residential dwellings for use as residence.





- 14) Financial Sector
- 15) Services relating to transportation of passengers
- 16) Services relating to transportation of goods
- 17) Funeral services

## II) Declared Services (Partly Taxable)

Nine declared services – The list of declared services is given in section 66E as follows –

- 1) Renting
- 2) Construction services
- 3) IPR Services
- 4) Software Services
- 5) Obligation to refrain from an Act
- 6) Hiring of goods
- 7) Activities in relation to Hire Purchase
- 8) Works contract services
- 9) Catering/Restaurant Services

## III) Taxable Services

- ◆ **Stock broking**- Services provided to an investor, by a stock broker in connection with the sale or purchase of securities listed on a recognised stock exchange.
- ◆ **Telephone Services**- Provided to a subscriber, by the telegraph authority in relation to a telephone connection.
- ◆ **General Insurance Business Services**- To a policy holder, by an insurer carrying on general insurance business in relation to general insurance business.
- ◆ **Advertising Services**- To a client, by an advertising agency in relation to advertisement, in any manner.
- ◆ **Courier Services**- To a customer, by a courier agency in relation to door-to-door transportation of time sensitive documents, goods or articles. **Consulting engineer's Services**- To a client, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering.
- ◆ **Customs house agent Services**- To a client, by a customs house agent in relation to the entry or departure of conveyances or the import or export of goods.
- ◆ **Clearing and Forwarding Services**- To a client, by a clearing and forwarding agent in relation to clearing and forwarding operations, in any manner.
- ◆ **Manpower Recruitment Services**- To a client, by a manpower recruitment agency in relation to the recruitment of manpower, in any manner.
- ◆ **Air travel agent's**- To a customer, by an air travel agent in relation to the booking of passage for travel by air.
- ◆ **Mandap keeper Services**- To a client, by a mandap keeper in relation to the use of mandap in any manner including the facilities provided to the client in relation to such use and also the services, if any, rendered as a caterer.
- ◆ **Tour operating Services**- To any person, by a tour operator in relation to a tour.
- ◆ **Rent-a-cab scheme Services**- To any person, by a rent-a-cab scheme operator in relation to the renting of a cab.
- ◆ **Architect's services**- To a client, by an architect in his professional capacity, in any manner.



- ◆ **Interior decoration Services-** To a client, by an interior decorator in relation to planning, design or beautification of spaces, whether man-made or otherwise, in any manner.
- ◆ **Management Consultancy Services-** To a client, by a management consultant in connection with the management of any organisation, in any manner.
- ◆ **Chartered accountancy Services-** To a client, by a practising chartered accountant in his professional capacity, in any manner.
- ◆ **Work Contract-** Services provided in relation to the execution of a works contract.
- ◆ **Asset management service-** Asset management services including portfolio management and all forms of fund management service. Internet Services- Services provided in relation to internet telecommunication. Consequently, reference to services provided in relation to internet telephony, being covered as part of internet telecommunication, shall be omitted.
- ◆ **Site preparation services-** Site preparation and clearance, excavation, earth moving and demolition services, other than those provided to agriculture, irrigation and watershed development.
- ◆ **Dredging services** of rivers, ports, harbours, backwaters and estuaries.
- ◆ **Survey and map making** other than by Government Departments. Cleaning services other than in relation to agriculture, horticulture, animal husbandry or dairying.
- ◆ **Construction of residential complexes** having more than twelve residential houses or apartments together with common areas and other appurtenances.
- ◆ **Credit Card Services-** Credit card, debit card, charge card or other payment card related services.
- ◆ **Letting services-** Services provided in relation to renting of immovable property, other than residential properties and vacant land, for use in the course or furtherance of business or commerce.
- ◆ **Commissioning or installation services** – To a customer, by a commissioning and installation agency in relation to commissioning or installation.
- ◆ **Franchisee services** - To a franchisee, by the franchisor in relation to franchisee.
- ◆ **Internet cafe's services** - To any person, by an internet cafe in relation to access of internet.
- ◆ **Maintenance and repair services** - To a customer, by any person in relation to maintenance or repair.
- ◆ **Technical testing services** - To any person, by a technical testing and analysis agency, in relation to technical testing and analysis.
- ◆ **Technical Inspection and certification services** - To any person, by a technical inspection and certification agency, in relation to technical inspection and certification.
- ◆ **Airport services** - To any person, by airports authority or any person authorised by it, in on airport or a civil enclave.
- ◆ **Transport of goods by Air** - To any person, by an aircraft operator, in relation to transport of goods by aircraft.
- ◆ **Business exhibition services** - To an exhibitor, by the organiser of a business exhibition, in relation to business exhibition.
- ◆ **Goods transportation services** - To a customer, by a goods transport agency, in relation to transport of goods by road in a goods carriage. Construction services— To any person, by a commercial concern, in relation to construction service.



- ◆ **Intellectual property services** - To any person, by the holder of intellectual property right, in relation to intellectual property service.
- ◆ **Opinion poll services** - To any person, by an opinion poll agency, in relation to opinion poll.
- ◆ **Outdoor catering services** - To a client, by an outdoor caterer.
- ◆ **Programme production services** - To any person, by a programme producer, in relation to a programme.
- ◆ **Survey and Exploration of mineral services** - To a customer, by any person. in relation to survey and exploration of mineral.
- ◆ **Pandal and Shamiana services** - To a client, by a pandal or shamiana contractor in relation to a pandal or shamiana in any manner and also includes the services, if any, rendered as a caterer.
- ◆ **Travel agent services** - To a customer, by a travel agent, in relation to the booking of passage for travel.
- ◆ **Forward contract services** - To any person, by a member of a recognised association or a registered association, in relation to a forward contract."
- ◆ **Transport of goods through pipeline** - Transport of goods through pipeline or other conduit.
- ◆ **Broadcasting services**- To a client, by a broadcasting agency or organisation in relation to broadcasting in any manner and, in the case of a broadcasting agency or organisation, engaged in the activity of selling of time slots for broadcasting of any programme or obtaining sponsorships for programme or collecting the broadcasting charges on behalf of the said agency or organisation.
- ◆ **Insurance auxiliary services**- To a policy holder or insurer, by an actuary, or intermediary or insurance intermediary or insurance agent, in relation to insurance auxiliary services concerning general insurance business.
- ◆ **Banking financial services**- To a customer, by a banking company or a financial institution including a non-banking financial company, in relation to banking and other financial services.
- ◆ **Port services**- To any person, by a port or any person authorised by the port, in relation to port services, in any manner.
- ◆ **Service or repair of motor vehicles**- To a customer, by an authorised service station, in relation to any service or repair of motor cars or two wheeled motor vehicles, in any manner.
- ◆ **Beauty parlour's services**- To a customer, by a beauty parlour in relation to beauty treatment.
- ◆ **Cargo handling services**- To any person, by a cargo handling agency in relation to cargo handling services.
- ◆ **Cable services**- To a customer, by a cable operator in relation to cable services.
- ◆ **Dry Cleaning services**- To a customer, by a dry cleaner in relation to dry cleaning.
- ◆ **Event management services**- To a client, by an event manager in relation to event management.
- ◆ **Fashion designing services**- To any person, by a fashion designer in relation to fashion designing.
- ◆ **Health club and fitness centre's services**- To any person, by a health club and fitness centre in relation to health and fitness services.



- ◆ **Rail travel agent's services-** To a customer, by a rail travel agent in relation to booking of passage for travel by rail.
- ◆ **Storage and warehousing services-** To any person. by a storage or warehouse keeper in relation to storage and warehousing of goods. **Business auxiliary services-** To a client, by a commercial concern in relation to business auxiliary service.
- ◆ **Commercial training and coaching service-** To any person, by a commercial training or coaching centre in relation to commercial training or coaching.
- ◆ **Cost accountancy Services-** To a client, by a practising cost accountant in his professional capacity, in any manner.
- ◆ **Company secretary Services-** To a client, by a practising company secretary in his professional capacity, in any manner.
- ◆ **Real estate agent's Services-** To a client, by a real estate agent in relation to real estate.
- ◆ **Security agency's Services-** To a client, by a security agency in relation to the security of any property or person, by providing security personnel or otherwise and includes the provision of services of investigation, detection or verification of any fraud or activity.
- ◆ **Credit rating agency services-** To a client, by a credit rating agency in relation to credit rating of any financial obligation, instrument or security. **Market research services-** To a client by a market research agency in relation to market research of any product, service or utility, in any manner **Under writing services-** To a client, by an underwriter in relation to underwriting, in any manner.
- ◆ **Scientific or technical consultancy services -** To a client, by a scientist or a technocrat, or any science or technology Institution or organisation, in relation to scientific or technical consultancy.
- ◆ **Photograph services-** To a customer, by a photography studio or agency in relation to photography, in any manner.
- ◆ **Convention services-** To a client, by any commercial concern in relation to holding of a convention, in any manner.
- ◆ **On line Information services-** To a customer, by a commercial concern, in relation to on-line information and database access or retrieval or both in electronic form through computer network, in any manner.
- ◆ **Video tape production services-** To a client, by a video production agency in relation to video tape production, in any manner.
- ◆ **Sound recording services-** To a client, by a sound recording studio or agency in relation to any type of sound recording

### MAIN PROVISIONS OF SERVICE TAX

#### Imposition and Applicability

Service Tax was imposed under Finance Act 1994 by the Government of India. Like Income Tax, Excise duty, Customs, there is no separate tax for service tax. It is governed and altered by Finance Act. It is applicable throughout India, except Jammu & Kashmir. At present each type of economic, commercial and financial services in the tax net of Service tax. W.e.f 2012-13 except some services given in negative list and exemption list all type of Services are taxable.

#### Service Tax not applicable –

- a) Service tax provisions are not applicable to the state of Jammu & Kashmir.



- b) Service tax not applicable on export of services.

### **Service Tax Liability –**

Service tax liability is based on the place where the service has been delivered, but not the place from where service has been provided.

Moreover, service tax is a destination based consumption tax. Service tax liability arises only after the service tax provider has registered himself either compulsorily or voluntarily, under the Service Tax provisions.

Only those service tax providers the value of whose taxable service exceeds Rs. 10 lakhs are liable to pay service tax. Where the service recipient is to pay service tax, the turnover criteria does not apply.

### **Taxable service (i.e. turnover) Excludes the following –**

- i) Export services
- ii) Services provided to United Nation and International Agencies.
- iii) Services provided to the Reserve Bank of India.
- iv) Services provided to foreign diplomatic missions for official use.
- v) Service provided to foreign diplomatic missions for private use of family members of diplomatic agents.
- vi) Service provider provides non-taxable services etc.
- vii) Import of service for personnel purposes.
- viii) Free of services.

### **Person who is Responsible to Pay Service Tax**

“Person liable for paying the service tax” means a person or agency or concern who provides the taxable service. For example in case of dry cleaning services a commercial concern who is providing dry cleaning services is responsible to pay Service Tax.

### **Service Provider –**

The following persons covered under Service Tax who fulfill the following conditions –

- 1) Who provide any one or more taxable services except exempted services.
- 2) Whose annual turnover is exceeding Rs. 10 lakhs regarding taxable services.
- 3) Who provides services in the consideration of value.
- 4) Who provides services with in India except J. & K.

### **No Service Tax in some cases –**

Service Tax is levied on ‘Service’ and not on ‘reimbursement of expenses’ or ‘material supplied’. Therefore in the following cases service tax is not applicable –

- 1) No tax on reimbursement of expenses
  - i) Expenses made on behalf of client
  - ii) Supply of books by coaching institutions
- 2) No tax on goods and Material supplied by Service provider
- 3) No service tax on services provided outside India
- 4) Service provided free of cost
- 5) No service Tax on Receipts in Convertible Foreign Exchange

### **Registration Provisions –**

Every ‘person liable for paying service tax’ has to register with Superintendent of Central Excise. He should register within 30 days from date of commencement of the business of providing taxable service. If value of taxable services is more than Rs. 9 Lakh in the year 2013-14. The person will have to apply for registration in form ST-1.



**Procedure for Registration –**

The following procedure shall be adopted for registration regarding service tax –

**1) Filling of Application**

The assessee should furnish the following documents along with registration form –

- i) Proof of address
- ii) Copy of PAN (income tax Permanent Account Number)
- iii) Copy of Partnership deed, in case of partnership firm.
- iv) Copy of Memorandum and Articles of Association, in case of a company.

**2) Time Limit for Registration**

Every person liable to pay the service tax should make an application to the concerned Central Excise Officer for registration within a period of 30 days of the service tax having come into force.

**3) Certificate of Registration –**

On receipt of application for registration in form ST-1, the Superintendent of Central Excise verifies the information and grants Certificate of Registration in form ST-2.

**4) Surrender of Certificate of Registration –**

- a) When a registered assessee transfers his business to another person, the transferee should obtain a fresh certificate of registration and the Certificate granted to the transfer should be surrendered.
- b) When a registered assessee ceases to carry on the service activity for which he is registered, he should surrender his registration certificate to the Central Excise authorities.

**5) Penalty for Failure to Registration –**

Any person, liable to pay service tax fails to make an application for registration under section 69, shall pay, by way of penalty, upto Rs. 10000 or Rs. 200 per day, whichever is higher.

**6) Service Tax Code Numbers –**

The different agencies of the Government use separate numbers for identification of individuals and business in relation to the activities concerning the agencies. The central Government has decided to issue common identification number which is known as service tax code (STC), which has been named as service tax payer (STP) number.

**Proforma: Registration Form 'ST-1'**

Application for registration under section 69 of the Finance Act, 1994

1. Name of the Assessee :
2. Address of the assessee :
- 2A. PAN Number :
3. Address of the premises to be registered:
4. Category of the service :
5. Fax/telecx and phone number :
6. Form of organization (individual/company/partnership etc.) :
7. Additional information required in the case of stock broker :
  - a) Name of the member, registered code No. :
  - b) Name of stock exchange registered with :
  - c) Date of admission of membership :
  - d) Whether member of more than one stock exchange:
  - e) Registration number allotted by Securities and Exchange Board of India (copy of certificate of Registration may be enclosed or a copy of application for registration with SEBI may be enclosed) :
8. I/We ..... agree to abide by all the provisions of Service Tax Rules, 1994 and any order issued thereunder.



9. I/We ..... declare to the best of my/our knowledge and belief that the information furnished herein is true and complete.

Place:

Signature of assessee or his

Date:

Authorised representative

Procedure for Payment of Service Tax (Section 68) –

Every person providing taxable service to any person shall pay service tax the rate specified 12.36% (12% service tax and 3% education tax thereon for 2013-14) and for the year i.e. present tax rate of service tax is 12.36% in such manner and within such period as may be prescribed.

Precautions to be taken while Depositing the Service Tax –

The assessee should take the following precautions, at the time of paying the Service Tax –

- i) Service tax should be paid within the time limit laid down in this regard.
ii) It should be deposited in the specified branches of the banks designated for this purpose in each Central Excise Commissionerate.
iii) The major head and sub-head relating to the service provided by the assessee should be correctly filed in the GAR-7 Challan.
iv) The GAR-7 challan should be yellow colour and should be filed in quintuplicate after being properly filed.
v) In case of delay in making payment of service tax in time, the interest is also required to be paid at a simple rate of 13% per annum for each month or part of the month for which payment is delayed.

Due date for payment of service tax

I) Individuals and Partnership Firm –

Table with 5 columns: Periodicity, Period, Due Date in case of manual payment, Due Date in case of e-payment, Assessee. Rows include quarterly periods from April to June, July to Sep, Oct to Dec, and Jan to March.

II) Others than Individual or Firm, namely Private or Public Limited Companies, Public Sector Undertakings (PSU), Hindu Undivided Family, Association of Person (AOP), Body of Individual (BOI) and so on –

Table with 5 columns: Periodicity, Period, Due Date in case of manual payment, Due Date in case of e-payment, Assessee. Rows include monthly periods from April to Feb and March to March.

Note: Due date is a public holiday, then next working day is the due date.

Rules regarding payment of Service Tax

Rule 6 lays down the following rules for payment of service tax –



**1) Due Date for Payment –**

- a) In case of individuals and firm – 25<sup>th</sup> of the month immediately following the said quarter.
- b) In case of others – 25<sup>th</sup> of the month immediately following the said calendar month.

**2) Manner and Mode of Deposit –** Form TR-6 or in any other manner prescribed by the Central Board of excise and customs.

**3) Where the deposit service tax –**

The assessee is required to deposit the service tax with the bank designed by Central Board of Excise and Customs.

**4) Payment tax by cheque –** The service tax by cheque, the date of presentation of cheque to the bank designated by the Central Board of Excise and Customs for this purpose.

**5) Accounting Code –** The tax amount has to be paid by GAR-7 challan. The major accounting head is 0044. Accounting codes (SI Code) allotted to various services are different.

**6) Adjustment of Excess Service Tax –** The assessee may adjust the excess service tax so paid by him against his service tax liability for the subsequent period.

**7) Rounding Off –** The amount of tax payable/paid should be rounded off to the nearest rupee.

**8) Interest on delayed payment of service tax (Section 75) –** Pay interest on delayed payment of Service tax @13% per annum.

**9) Penalty for Failure to Collect or Pay Service Tax (Section 76) –** Penalty for non-payment or delayed payment of service tax will be minimum of Rs. 200 per day during which such failure continues or 2% per month whichever is higher as per Section 75 of the Finance Act, 1994.

**10) Refund of Excess Service Tax Paid –** Where such service tax assessed is less than the service tax paid, the assessee may apply for refund.

**SERVICE TAX**

The four main issues are contained in the assessment procedure from service tax point of view –

- i) Furnishing of Service Tax Return
- ii) Payment of Service Tax
- iii) Assessment
- iv) Penalties

**Service Tax Returns –**

Every person liable to pay the service tax shall himself assess the tax due on the services provided by him and shall furnish to the Superintendent of Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.

**Rules of submission of Returns –**

Rule 7 of Service Tax Rules lays down the following rules for submission of returns –

**1) Half Yearly Return –**

Every assessee shall submit a half yearly return in Form ‘ST-3’ or ‘ST-3A’, as the case may be, alongwith a copy of the Form TR-6, in triplicate for the months covered in the half yearly return.

**2) Due Date of Return –**

Every assessee shall submit the half yearly e-return by the 25<sup>th</sup> of the month following the particular half year.

**Thus, the half yearly return falls due on the following dates –**

For the half year	To be filed by
1 <sup>st</sup> April to 30 <sup>th</sup> September	25 <sup>th</sup> October
1 <sup>st</sup> October to 31 <sup>st</sup> March	25 <sup>th</sup> April

**3) E-filing of returns –**





Filing the service tax returns on-line (e-filing of returns) is compulsory to every service provider.

#### 4) First Return –

Every assessee shall furnish to the Central Excise Officer at the time of filing his return for the first time, a list of all accounts maintained by the assessee in relation to service tax including memoranda received from his branch offices.

#### 5) Filing of Nil Return –

If no services have been provided during a half year and no Service Tax is payable, the assessee may file a Nil Return within prescribed time limit.

#### 6) Revised Return –

An assessee is allowed to rectify mistakes and file Revised Return within 90 days from the date of filing of the original return. Revised return after 90 days not allowed.

#### Late fee (Penalty) in case of late filing of Form ST-3

If a person fails to furnish the ST-3 return within the due date (25<sup>th</sup> October and 25<sup>th</sup> April every year) he shall be liable to pay late fee (penalty) is as follows –

Delay upto 15 days	Rs. 500
Delay upto 30 days	Rs. 1000
Delay beyond 30 days	Rs. 1000 + Rs. 100 per day Subject to a maximum of Rs. 20000

#### Assessment Procedure –

“Assessment”, as per rule 2(b) of Service Tax Rules, 1994 means assessment of service tax by a Central Excise officer and shall include reassessment, provisional assessment, best judgement assessment, an order of assessment in which the tax assessed is nil, determination of the interest on the tax assessed or reassessed.

#### Types of Assessments –

**I) Self Assessment** – Every person liable to pay the service tax shall himself assess the tax due on the taxable service provided by him and shall furnish to the Superintendent of Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.

- 1) Verification by the Superintendent
- 2) Time for Assessment
- 3) Levy of Penalty

**II) Provisional Assessment** – If an assessee is unable to correctly estimate, at the time of the deposit, the actual amount of service tax for any month of quarter, he may make a written request to Assistant/Deputy Commissioner of Central Excise for making payment of service tax on provisional basis.

**III) Best Judgement Assessment** – Best Judgement Assessment can be initiated by the department officer in the following cases, if any person –

Liable to pay service tax fails to furnish the return.

Furnish the return, but fails to assess the tax in accordance with the provisions of the Service Tax.

**IV) Reassessment** – Section 73 lays down the provisions related to reassessment, where value of taxable services is found escaping assessment. It provided for reassessment in the following cases-

- a) Where the Assistant Commissioner of Central Excise or, the Deputy Commissioner of Central Excise has reason to believe that by reason of omission or failure on the part



of the assessee to make a return true all material facts required for verification of the assessment under Section 71, the value of taxable service has escaped assessment or has been under-assessed or service tax has not been paid or has been short-paid or any sum has erroneously been refunded.

- b) Where the Assistant Commissioner of Central Excise or, as the case may be, Deputy Commissioner of Central Excise has, in consequence of information in his possession, reason to believe that the value of any taxable service assessable in any prescribed period has escaped assessment or has been under-assessed or service tax has not been paid or has been short-paid or any sum has erroneously been refunded.
- c) Where any service tax has escaped assessment or has been under-assessed or service tax has not been paid or has been short paid or erroneously refunded, the person chargeable with the service tax, may pay the amount of tax on the basis of his own ascertainment of such tax.

#### Time Limit for Reassessment –

The reassessment can be made –

- a) In case falling under clause (a) and (b) above, at any time within five years, and  
b) In cases falling under clause (c) above, at any time within six months from the Relevant date.

#### Penalty Provisions –

In case of failure of getting registration, non-payment of service tax, non-filing of Return or tax evasion the following penalties shall be imposed w.e.f. 08-04-2011 –

S.No.	Types of Penalty	Penalty
1	Non-filing of Return	Upto Rs. 20000
2	Not obtaining registration	Rs. 200 per day for every day of default or Rs. 10000 whichever is higher.
3	Non-maintenance of proper books of accounts	Upto Rs. 10000
4	Non-appearance before Offices on issue of summons	Rs. 200 per day for every day of default or Rs. 10000 whichever is higher.
5	Failure to pay tax electronically when so required to pay.	Upto Rs. 10000
6	Issuing incorrect invoice or not accounting invoices in books	Upto Rs. 10000
7	Failure to pay service tax.	Rs. 100 for every day of delay or @1% of the tax per month whichever is higher. However, such higher should not exceeds amount of Service Tax.
8	Fraud or suppression of facts	50% of service tax, evaded. The penalty will be reduced to 25%, if tax, interest and penalty paid within 30 days from the date of receipt of order of Central Excise Officer.