

## CHAPTER VIII

### ASSESSMENT AND MAINTAINCE OF BOOKS OF ACCOUNT

#### 31. Self-Assessment

- (1) For the purpose of self-assessment under section 35 of the Act, the Annual Return in Form JVAT 204 and JVAT 124 shall be treated as "self-assessment", provided the VAT dealer, furnishes the under-mentioned documents and Prescribed Forms along with Form JVAT 124 -
  - (a) A declaration duly issued by a selling dealer in Form JVAT 403 and JVAT 404 as the case may be, as prescribed in sub-rule (1) and (2) of Rule 35.
  - (b) Copy of the Audited Accounts, duly certified by such persons specially authorised in this behalf, under Section 63 of the Act, in the circumstances where his Gross Turnover exceeds Rs. 40 lakhs, along with the Form of Audit Certificate, in Form JVAT 409.
  - (c) Notwithstanding anything contained in clause (b) of this sub-rule, all such dealer shall furnish their profit and loss account, trading account and manufacturing account, as the case may be, stating therein the details of purchases, sales and stocks held.
  - (d) Statement showing the purchases / arrivals from outside the State under CST Act 1956;
  - (e) Statement showing purchases in course of Import under Section 5(2) of the CST Act 1956;
  - (f) Statement showing purchases from the registered VAT dealer of the State of Jharkhand along with the details of Tax Invoices received thereof;
  - (g) Statement showing sales of goods to registered VAT dealers to whom Tax Invoices has been issued along with the details of such tax Invoice and particulars thereof;
  - (h) Statement showing the details of all Declarations Forms received in support of the claims, whether under the provisions of the CST Act or the Act along with the original copy of such Forms;
  - (i) Statement showing the details of all Declarations Forms issued, whether under the provisions of the CST Act or the Act;

All the aforesaid documents required for self-assessment of a Tax Period, shall be filed before the Prescribed Authorities on or before 31<sup>st</sup> December of the following year.

- (2) In the circumstances, the self-assessment has not been filed within the time prescribed in sub-rule (1) of this rule, or if filed, the prescribed authorities are satisfied that the returns or the revised returns and the documents for the purpose of self-assessment are not consistent, true and complete, the Prescribed Authorities shall issue a Notice in Form JVAT 302 to the dealer, and make a final assessment in accordance with the provisions of sub-section (5) of Section 35.
- (3) If the Tax assessed along with the Interest and Penalty is more than the amount paid along with self-assessment, the Assessing Authority shall issue Demand Notice in Form JVAT 300.

#### 32. Provisional Assessment

When the Prescribed Authority has completed the provisional assessment in accordance with the provisions containing in Section 36, he shall issue a Notice of Demand in Form JVAT 300.

Explanation – Provided the dealer for the purpose of Provisional Assessment also furnishes the Declarations as Prescribed in sub-rule (1) and (2) of rule 35, and shall also file a copy of the Audited Accounts, duly certified by such persons specially authorised in this behalf, under Section 63 of the Act, in the circumstances where his Gross Turnover exceeds Rs. 40 lakhs, along with the Form of Audit Certificate, in Form JVAT 409.

#### 33. Audit Assessment

- (1) For the purposes of Section 37, the Prescribed Authority shall, in respect of any year, select by the 31<sup>st</sup> of March of the year following the financial year, such number of dealers as may be deemed fit, for audit, to be conducted either singly or by a team of officers for ascertaining the correctness of accounts maintained by such dealers. Such selection by the commissioner shall be made through a formula specially evolved for this purpose. The number of registered dealers to

- be audited every year shall ordinarily be not more than ten per centum of the total number of registered dealers in the State.
- (2) After making selection of the registered dealers under sub-rule (1), a list relating to each Circle shall be sent to the in-charge of the circle. Upon receipt of such list the In-charge shall, constitute a team of such officers as may be required to conduct an audit in respect of each such dealer. Such team of audit authority may consist of one or more Commercial Taxes Officers, Assistant Commissioner of Commercial Taxes or Deputy Commissioner of Commercial Taxes, as the In-charge of the circle may deem fit.
  - (3) The audit authority constituted under sub rule (2) shall serve upon the dealer selected for audit, a notice in Form JVAT 304 specifying therein, the time, date, the expected duration of the audit at the place of business of the dealer and the nature of accounts and documents to be examined by the authority and the dealer shall comply with the terms of such notice.
  - (4) The Prescribed authorities may require the assistance of any authority or person for the cross verification of any information gathered during the course of an audit assessment.
  - (5) The audit report drawn by the audit team shall be scrutinized by the Circle in-charge and a final report shall be prepared a copy of which shall be handed over to the dealer.
  - (6) The dealer shall file his reply to the issues raised in the final report within a period, which shall not ordinarily be less than fifteen days from the date of the receipt of the report.
  - (7) If, having regard to the final report and the reply filed by the dealer, the prescribed authority has reasons to believe that the dealer has not disclosed his correct tax liability or has concealed or omitted any fact leading to any reduction in the tax payable by him, he shall proceed to assess to the best of his judgment, the amount of tax due from such dealer in accordance with the provisions of sub-section 5 of Section 37 of the Act.
  - (8) The Prescribed authorities conducting the audit, shall issue a notice in Form JVAT 304, in accordance with the provisions of sub-section (6) of Section 37, and after hearing the dealer, if the said authority is satisfied, the dealer has, in order to evade or avoid payment of tax, has failed to file a Return or has furnished an incomplete and incorrect Return or has availed Input Tax Credit for which he was not entitled or has employed any such method of accounting, which does not enable the prescribed authority to assess the tax due from him, the Prescribed Authority shall proceed on imposing a penalty, a sum equal to twice the amount of additional tax assessed on account of the aforesaid reason(s).
  - (9) When the additional tax assessed along with the Penalty imposed, the Assessing Authority shall issue demand notice in Form JVAT 300.

#### **34. Assessment of dealer who fails to get himself Register**

- (1) If a dealer liable for registration, fails to get himself registered under the Act, the Prescribed Authority shall serve upon a notice of hearing in Form JVAT 302, and the dealer shall comply and produce such records, documents and informations, as required in that notice by the date specified therein, and after examination of the record and document produced, the Prescribed Authority shall assess the tax and penalty payable from such dealer, in respect to such Tax Period as may be specified in the notice.
- (2) If the dealer, who has been served upon with a Notice, mentioned in sub-rule (1) above, fails to comply the requirements specified in the Notice, the Prescribed Authority shall assess to the best of his judgment, the amount of tax due and penalty due from such dealer, in respect of tax period and all subsequent period(s).

#### **35. Evidence in support of claims in respect of goods leviable to Output Tax at the First Point of Sale within the State of Jharkhand**

- (1) A dealer who claims that any amount of his turnover should be exempted from tax on account of the goods being specified in Part E of Schedule II and for the sales made at the first stage of sale in the State under sub-section (2) of Section 9 of the Act, shall substantiate for such claim before the authority prescribed by producing the purchase order, if any, the original copy of the cash memoranda or bills issued to him and a true Declaration in writing from the selling dealer or his manager declared under Section 64 in Form JVAT 403 that the goods in question have already been subjected to tax on the first point of their sale in the state of Jharkhand.
- (2) Any VAT dealer, who claims Input Tax Credit under sub-section (4) of Section 18 of the Act and his Output Tax payable requires the Input Tax Credit, for the sales made at the stage(s) under sub-section (1) of Section 9 of the Act, shall substantiate for such claim before the authority

prescribed, by producing a true Declaration in writing, issued by the preceding VAT selling dealer, in Form JVAT 404 evidencing that the goods in question have already been subjected to Tax at the preceding stage of their sale in the State of Jharkhand.

- (3) Registered dealers shall get the Declaration in Form JVAT 403 and JVAT 404 printed thereunder and shall issue such Forms from a bound book containing twenty five leaves in triplicate, duly perforated and such Forms shall bear printed serial number along with the name of the Printer in the Bold letters, or in the circumstances self-printed by the own computer, it shall be printed in Bold letters as "Computer Generated". In the case of "Self Printed" or "Computer Generated" the provisions of sub-section (9) of Section 60 shall apply. Before issue of the volume, the dealer shall get it authenticated by the In-charge of the Circle or any other officer of the Circle authorised in this behalf, where such dealer is registered.

Provided that the Prescribed Authority may refuse to authenticate such Declarations in Form JVAT 403 and JVAT 404, in the circumstances when there are any dues of admitted VAT payable or assessed VAT payable or Interest payable or Penalty payable under the Act or under the Repealed Act, or if the VAT registration certificate of the dealer has been suspended under rule 9, and also if the Prescribed Authority, is of the opinion that the registered VAT dealer is not complying the provisions of the Act and the Rules.

- (4) Before furnishing Declaration to the purchasing dealer in Form JVAT 403 and JVAT 404, the selling dealer or any person authorized by him in his behalf, shall fill in all required particulars in the Form and shall also affix his signature in the space provided in the Form for this purpose. Thereafter, the counterfoil of the Form shall be retained by the selling dealer and the other two portions marked 'Original' and 'Duplicate' shall be made over by him to the purchasing dealer.

Provided the selling dealer shall issue one Declaration in respect to one purchasing dealer for the sales made during a year.

- (5) The selling dealer shall also maintain, serially and chronologically, a complete account in a Register in respect of all Forms of Declarations printed and issued by him and also file a statement of Forms along with the Annual Return.
- (6) The purchasing dealer shall also maintain serially and chronologically a complete account in separate Register in respect of the Forms of Declaration, received by him from the selling dealer.
- (7) Every Declaration authenticated by the Prescribed Authority, shall be kept by him in safe custody and he shall be responsible for the loss, destruction, or theft of any such form and loss of Government revenue, if any, caused thereby.
- (8) If any such authenticated Declaration, before it is issued, is signed and dispatched by the consignor, is lost, destroyed or stolen from his custody, the dealer shall report the fact to the Prescribed Authority within seven days from the date of such loss, destruction or theft, make appropriate entry in the "Remarks" column of the Register and take such other steps to issue public notice of loss, destruction, theft and in respect of each such Declaration, shall furnish to the Prescribed Authority, an indemnity bond in Form JVAT 122 against any possible loss to Government.
- (9) The aforesaid Declaration(s) Form shall not be transferable.

**36. Evidence in support of claims in respect of goods leviable to Tax on Entry of Goods into a Local Area as specified in Section 11 of the Act.**

- (1) A dealer, who claims that any part of his turnover relating to import of goods mentioned in Schedule III of the Act, is not liable to tax on the ground that tax was paid at the first point of entry into the State or into a local area under sub-section (1) of Section 11, he shall substantiate such claim before the assessing officer by producing purchase bill, invoices or cash memos and other documentary evidence to the satisfaction of the said authority and a true and complete Declaration in Form JVAT 405 received from the selling dealer.
- (2) (a) Every registered dealer who makes first sale of the goods mentioned in Schedule III of the Act, imported from the outside the State and by virtue of being the first importing dealer has paid tax thereon, shall issue to the purchasing dealer in the State, in addition to a cash memo or bill or invoice, a true and complete Declaration in Form JVAT 405. The Declaration shall be signed by the dealer or his declared manager.

- (b) Any other dealer making second or subsequent sale of such goods mentioned in Schedule III of the Act, which has suffered the levy of tax and on which entry tax has been paid at the stage of first entry into a local area, shall issue to the purchasing Dealer a Declaration in Form JVAT 405 as prescribed in clause (a).
- (c) The selling dealer shall issue one Declaration in respect to one purchasing dealer for the sales made during a year.
- (3) The dealer shall maintain serially and chronologically a complete account in a Register containing all particulars required to be mentioned in the Form and of all the Forms issued.
- (4) Every Declaration authenticated by the Prescribed Authority, shall be kept by him in safe custody and he shall be responsible for the loss, destruction, or theft of any such form and loss of Government revenue, if any, caused thereby.
- (5) If any such authenticated Declaration, before it is issued, is signed and dispatched by the consignor, is lost, destroyed or stolen from his custody, the dealer shall report the fact to the Prescribed Authority within seven days from the date of such loss, destruction or theft, make appropriate entry in the "Remarks" column of the register and take such other steps to issue public notice of loss, destruction, theft and in respect of each such Declaration, shall furnish to the Prescribed Authority, an indemnity bond in Form JVAT 122 against any possible loss to Government.

**37. Manner for claiming reduction in the liability to pay VAT -**

- (1) A claim for reduction in the liability to pay VAT shall be made by the registered VAT dealer, who is entitled to claim such reduction in accordance with the provision of sub-section (1) of Section 11 of the Act.
- (2) Such claim shall be valid only when the amount of Entry Tax has been paid on the concerned goods.
- (3) The burden of proving the claim for reduction of VAT payable shall be on the dealer.
- (4) Such claim shall be made by furnishing a statement showing the details of the evidence of payment of Entry Tax, deposited in the Government Treasury.

**38. Records to be maintained for VAT**

- (1) Every VAT dealer shall keep and maintain a true and correct account of his business transactions preferably in English, Hindi or any other languages, which can be readable to the Prescribed Authorities.
- (2) The following records in particular shall be maintained:
  - (a) A VAT monthly account specifying total Input Tax (including Entry Tax), and net Input Tax payable shall be maintained in Form JVAT 500.
  - (b) A VAT monthly account specifying total Output Tax and net Output Tax payable shall be maintained in Form JVAT 501.
  - (c) Purchase records, showing details of all purchases on which tax has been charged and all purchases made without charge of tax. Original tax invoices for purchases on which tax has been charged, and invoices for purchases made without charge of VAT shall all be retained in date order.
  - (d) Sales records showing separately all sales made at each tax rate, branch transfer / transactions otherwise than by way of sales and exempt sales. Copies of tax Invoices related to taxable sales and invoices related to exempt sales shall all be retained in date and numerical order.
  - (e) Credit and debit notes issued and received shall all be retained in date and numerical order.
  - (f) Record of all Export of goods together with copies of customs clearance certificates, invoices issued to the foreign purchasers, transport documentation in the case of Export of goods under sub-section 3 of Section 5 of C.S.T. Act 1956, Form H prescribed under the said Act, orders or contracts for or with the foreign purchaser, and evidence of payment by bank transfer or by a letter of credit payable by a bank.
  - (g) Record of inter-State sales and inter-State transfer supported by "C Forms", "F Forms" and stock transfer invoices / vouchers etc.
  - (h) Records of Intra-State Stock Transfers/Transfer for sale by the Agents, on behalf of the Principal, along with such contracts for appointment of Agents, if any.

- (i) Cash records maintained by retailers namely cash books, petty cash vouchers, and other account records including copy receipts or cash register machine rolls detailing the daily takings.
  - (j) Records of Entry Tax payment.
  - (k) Records of tax collection at source and tax deduction at source.
  - (l) Records of details of availment tax deferment.
  - (m) Records of adjustment of VAT credit against liabilities under CST Act.
  - (n) Records of calculation of Purchase Tax liability.
  - (o) Computer/electronic records, where available.
  - (p) Details of input tax calculations where the VAT dealer is making both taxable and exempt sales.
  - (q) Documents, records, and claim Forms for all transitional relief claims of tax credit for sales tax and for claims for VAT credit on first registration for VAT.
  - (r) Stock records showing stock receipts and deliveries and any manufacturing records.
  - (s) Order records, delivery notes etc.
  - (t) Annual accounts including trading, profit and loss accounts, and the balance sheet thereof.
  - (u) Bank records, including statements, chequebook counterfoils and pay-in-slips.
- (3) All records specified in this rule shall be retained and made available for inspections / audit / verifications for a period of five years, after the end of the year.
- (4) Every VAT dealer who keeps and maintains the accounts in a language other than English shall adopt international numerals in the maintenance of such accounts.
- (5) A VAT dealer making sales predominantly to non-VAT dealers and consumers who does not separately record every sale, shall maintain a daily record of gross receipts at each tax rate including exempt sales.
- (6) Every dealer, being a manufacturer shall, in addition to the accounts and register require to be maintained under this rule, shall also maintain month wise, separate accounts in respect of -
- (i) Quantity of stocks, receipts, issue and closing stocks of different inputs received;
  - (ii) Quantity of opening stock, production, sales or dispatches and closing stock of different finished goods.
- (7) Every dealer claiming input tax credit on account of capital goods shall maintain a Register of such goods containing the following particulars: .
- (i) Location of the capital goods;
  - (ii) Date of purchase of the capital goods and such particulars regarding the purchase as the persons or dealers from whom such goods are purchased, details of bill or invoice relating to such capital goods;
  - (iii) Quantity of the capital goods;
  - (iv) Cost of purchase of the capital goods.
- (8) Copy of the customs clearance certificates.
- (9) Every dealer or person required by sub-section (1) of Section 63, whose Gross Turnover in a year exceeds Rs. 40 Lakhs, shall get his Accounts audited by an "Accountant" or by a "Tax Practitioner", which shall contain the audited Accounts in Form of a "Statement of Particulars" along with a Certificate in Form JVAT 409, on behalf of such persons, conducting such Audit of accounts, stating therein the genuineness and correctness of the Accounts audited thereof.

Explanation - Except the Registers and Records mentioned in sub-rule (1) and (2) of this Rule, where a manufacturer or other VAT dealer registered under Central Excise Act 1944 (Act 1 of 1944) or Rules made thereunder, and is obliged to maintain Registers or records for the purposes of that Act, shall be deemed to have been kept under this Act also, provided it also contains the particulars mentioned in this rule.