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RECENT AMENDMENTS IN MVAT

FINANCIAL YEAR : 2016-17

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AGENDA FOR THE MEETING

- ▶ HIGHLIGHTS OF THE MAHARASHTRA BUDGET 2016-17
- ▶ AMENDMENTS IN THE MVAT ACT, 2002
- ▶ AMENDMENTS IN THE MVAT RULES, 2005
- ▶ CHANGE IN PRODUCT RATES
- ▶ MISCELLANEOUS CHANGES
- ▶ CHANGES IN OTHER LOCAL TAXES
- ▶ CHANGE IN MVAT RETURN FILING PROCEDURE

HIGHLIGHTS OF THE MAHARASHTRA BUDGET 2016-17

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- ▶ FY 2016-17 to be observed as “Shetkari Swabhiman Varsh”
- ▶ Provision of nearly 25,000 crores is made for various schemes in Agricultural sector
- ▶ New scheme launched to provide subsidies to set up agricultural processing units
- ▶ New formats of MVAT returns as a step for convergence towards GST

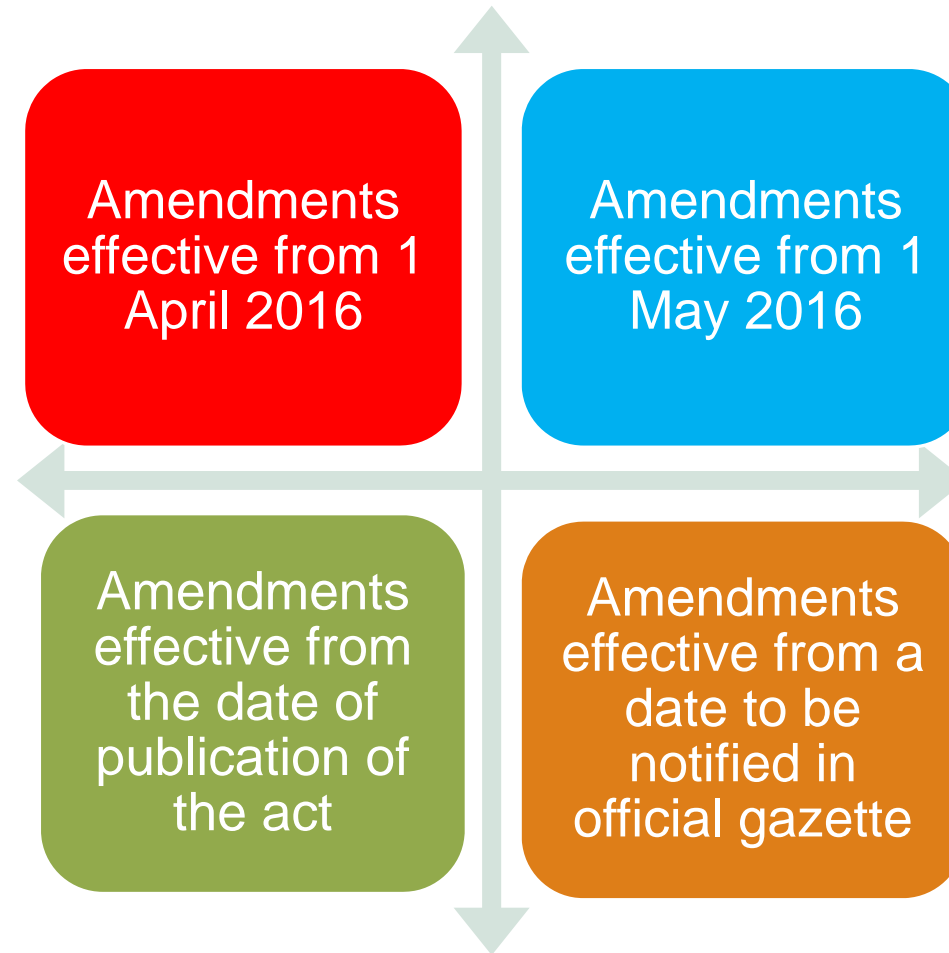
HIGHLIGHTS OF THE MAHARASHTRA BUDGET 2016-17

- ▶ SAP Based system to be adopted by the Sales Tax Department
- ▶ Concept of Fair Market Price is introduced
- ▶ Multiple revised returns can be filed before filing VAT Audit report
- ▶ Penalty to be imposed for not furnishing the information – E-Commerce Companies

AMENDMENTS IN MVAT ACT, 2002

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- Amendments introduced *vide* L.A.Bill No. XVIII of 2016



Amendments effective from 1 April 2016

- ▶ Exemption under Section 8(3D) of MVAT Act, 2002
 - ▶ Transfer of property in sizing and warping of yarn
- ▶ New Composition rates for **Hotels/Restaurants**

Rate	Turnover Limit in previous year	Status of Dealer
5%	Up to 3 Crores	Registered Dealer
8%	More than 3 Crores	Registered Dealer
10%	NA	Unregistered Dealer

Amendments effective from 1 April 2016

➤ Situation 1- Dealer opting out of composition scheme

- The dealer may claim set-off in his first return to be uploaded as a non composition dealer,
 - after opting out of composition scheme on the purchases of goods which are held in stock on the date of opting out of the composition scheme and on which he had not claimed set-off earlier.

➤ Situation 2 – Dealer opting for composition scheme

- The dealer shall reverse the set-off, claimed by him on the purchase of goods
 - which are held in the stock on the date of opting for the composition scheme.
 - Such amount of set-off shall be paid by him along with his first return of composition scheme, after opting for the composition scheme

Amendments effective from 1 April 2016

➤ Section 70(3) – Power to collect statistics

➤ **Penalty – Sum of Rs. 1,00,000**

Person failing to furnish information as prescribed in Section 70

➤ **Continuing default for a period beyond 2 months – Sum of Rs. 1,000 per day**

➤ Section 89(3) – Invoice by specified unit

➤ The invoice issued by specified unit to carry additional certificate

➤ **Specified Unit:**

➤ Mega unit, Ultra Mega unit, holding valid Identification Certificate

➤ Very Large unit, Mega Unit- Deferment of tax payment under 1993 PSI.

➤ Immediate & Subsequent purchasers

➤ Penalty equivalent to amount of tax in the invoice is provided for.

Amendments effective from 1 May 2016

Section 16(3) - Registration

- ▶ A rejection order shall be passed without giving an opportunity of being heard in cases where:
 - ▶ The registration application is not complete
 - ▶ The documents for registration have not been uploaded on the website
 - ▶ Wrong information is provided
 - ▶ Documents uploaded are not legible
 - ▶ Prescribed conditions are not fulfilled

- ▶ The registration application shall be restored if the discrepancies have been resolved within 30 days from the date of rejection order.

- ▶ The dealer shall be given only one chance for resolving the discrepancies

Amendments effective from 1 May 2016

Section 16(6) – Proviso added – Registration

- ▶ The registration to be cancelled in the following cases:
 - ▶ Where the dealer has not commenced business within 6 months from the date of registration
 - ▶ Where the registration has been obtained by fraud, misrepresentation of facts

- ▶ A reasonable opportunity of being heard shall be given to the dealer by the commissioner

Section 55 – Advance Ruling – Effective from the date of publication of the act

- ▶ Application to the Commissioner on questions prescribed in prescribed form and manner
- ▶ The Commissioner shall constitute the Advance Ruling Authority (ARA)
- ▶ The Commissioner may allot pending applications as on 1 May 2016 to such advance ruling authority
- ▶ The ARA shall make advance ruling within 90 days from the date of acceptance of the application
- ▶ The applicant can withdraw the application within 30 days from the date of submission
- ▶ The application shall not be accepted in cases:
 - ▶ Where the question is pending before Tribunal/HS/SC
 - ▶ Where the transaction is designed to avoid tax
- ▶ The acceptance/rejection of application to be communicated within 30 days from the date of application
- ▶ No application to be rejected without an opportunity of being heard

Section 55 – Advance Ruling – Effective from the date of publication of the Act

- ▶ The Commissioner may call report from the concerned officer
- ▶ The advance ruling to be binding on all the officers of MVAT Department
- ▶ The appeal against the advance ruling shall lie before the tribunal
- ▶ The appeal shall be filed before Tribunal within a period of 30 days of communication of the order
- ▶ The Commissioner or ARA may rectify any mistake apparent from the record
- ▶ The applicant may bring to the notice of the Commissioner the mistake within 30 days from the receipt of the order
- ▶ The Commissioner may call for the record of any Advance Ruling to examine the ruling

Amendments effective from the date of publication of the act

Section 20(4)(a) – Revision of returns

- ▶ Multiple revisions are permitted
- ▶ Time Limit for filing revised returns – Up to the date of filing the audit report

Section 23(2A) – Assessment

- ▶ Section 23(2A) pertains to the returns for the period on or after 1 April 2012
- ▶ The Commissioner to assess the sale / purchase turnover on the basis of MVAT Returns
- ▶ The assessment order to be passed within a period of 4 years from the end of the year to which the return relates
- ▶ If no order is passed within such period then the returns shall be deemed to be accepted

**Section 23(5A) –
Assessment**

**Amendment
effective from the
date of publication
of the act**

Section 23(5B)

**Section 23(5A) shall
also be applicable
to the assessment
proceedings
pending as on 1
April 2016**

- ▶ In case of proceedings under sub-section (2) or (3) or (4) or (5) of Section 23, the commissioner shall inform the dealer regarding the tax liability observations to the dealer
- ▶ The assessment order shall not be passed without sending such information
- ▶ Such intimation to be sent within a period of 6 months before the date of expiry of period of limitation for assessment under respective sub-sections
- ▶ If the dealer agrees with the observations and makes the payment then the assessment is deemed to have been completed

Section 28A – Introduction of the concept of FAIR MARKET VALUE

- ▶ Need for such concept
 - ▶ Instances observed for evasion of tax
 - ▶ Showing actual sales price below the “market price”

- ▶ The commissioner shall consider the fair market price while determining the tax liability

- ▶ Whether such fair market price would be same as Arm’s Length price as per Section 92C of the Income Tax Act, 1961????

- ▶ The concept shall be deemed to have effect from 1 April 2011 – **RETROSPECTIVE EFFECT**

Section 31 – TDS CREDIT

Effective from the date of publication of the act

➤ Section 31(4)

- The amount of TDS deducted under this section can be:
 - Used as payment of tax by the person making the said supply
 - Transferred as a credit to the sub-contractor by the principal contractor

Notes:

1. The principal contractor shall claim the credit in the period in which the certificate of payment is furnished to him
2. The sub-contractor shall claim the credit in the period in which the principal contractor has transferred the credit

Section 31 – continued...

▶ **Section 31(8)**

- ▶ This amendment is with effect from a date to be notified
- ▶ The person liable to deduct TDS shall apply to the commissioner for allotment of STD A/c Number
- ▶ Such number shall be mentioned in documents, statements and returns to be filed
- ▶ If the person liable to deduct TDS is registered under MVAT Act, 2002 then he shall not be required to apply under this sub-section

▶ **Section 31(10)** - The person deducting TDS shall file the return in the prescribed form and within prescribed time.

▶ **Section 31(11)** - Revised return can be filed within a period of 9 months from the end of the year to which the return relates

▶ **Section 31(12)** - Penalty applicable for not applying for STD A/c Number– Up to the amount of tax deductible

▶ **Section 31(13)** - Penalty applicable for not filing the return – Rs. 5,000

AMENDMENTS IN MVAT RULES, 2005

AMENDMENTS IN SET OFF RULES

Effective from 1 April 2016

➤ Rule 52B

- The dealer shall be entitled to claim set-off in respect of the following products on fulfillment of certain conditions:
 - Goods covered in entries 13 (non-alcoholic beverages) and 14 (cigarettes and cigars) of **Schedule D**
 - Mobile phone or cellular handset

Conditions:

- Set-off available only to the extent of tax payable under CST Act, 1956 on inter-state re-sales
- Set-off available on purchase of said goods if re-sold locally
- Set-off to be claimed only in the month in which corresponding sales is effected

AMENDMENTS IN SET OFF RULES Effective from 1 April 2016

➤ Rule 53(11) added:

- Set-off of tax paid on the purchase of motor vehicles available only to the extent of tax payable on such transfer of right to use
- Set-off to be claimed in the period in which the right to use has been transferred

CHANGE IN PRODUCT RATES

CHANGE IN PRODUCT RATES

- ▶ The MVAT rate applicable on the goods getting covered within Schedule C has been increased from 5% to 5.5%
- ▶ The change in the rates as applicable on various products has been tabulated as under:

CHANGE IN PRODUCT RATES – w.e.f. 1 April 2016

Sr. No.	Product	Old Rate	New Rate
1	Coconut oil sold in packets up to 500 milliliters *	5%	12.5%
2	Terry Towels used in Hotels	0%	5.5%
3	Tea	5%	5.5%
4	Sweet Corn	12.5%	5.5%
5	Barbed Wire	12.5%	5.5%
6	Wire Mesh	12.5%	5.5%
7	Cotton Seed	5%	2%

* - Entry of drugs amended to exclude hair oil from the same

CHANGE IN PRODUCT RATES – w.e.f. 1 April 2016

Sr. No.	Product	Old Rate	New Rate
8	Bus operated on battery	5%	0%
9	Bus operated on solar energy	5%	0%
10	Pyrolysis Oil produced by processing plastic waste and organic waste	12.5%	5.5%
11	LED Bulbs	12.5%	5.5%
12	Pencil Box	12.5%	5.5%
13	All types of Gum	12.5%	5.5%
14	All types of Glues and stick	12.5%	5.5%

CHANGE IN PRODUCT RATES – w.e.f. 1 April 2016

Sr. No.	Product	Old Rate	New Rate
15	Stapler Pins	12.5%	5.5%
16	Tape Dispenser	12.5%	5.5%
17	Duster	12.5%	5.5%
18	All Types of Files	12.5%	5.5%
19	Retrofit Kit	12.5%	0%
20	Used Vehicles ** (Sale by Banks and Financial institutions)	12.5%	5.5%
21	Sterile water for injection	12.5%	5.5%

*** - The concessional rate would be applicable only in case where sales tax or entry tax has been paid at an earlier stage*

CHANGE IN PRODUCT RATES – w.e.f. 1 April 2016

Sr. No.	Product	Old Rate	New Rate
22	Mammography machines	12.5%	0%
23	Bamboo handicraft products excluding bamboo furniture	5%	0%

MISCELLANEOUS CHANGES

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- ▶ The yearly turnover limit for composition scheme for is enhanced from 50 lacs to 1 Crore for RETAILERS w.e.f 1 April 2016

- ▶ **No tax for Turnover Upto Rs. 50,00,000 – RD/URD BAKER**
- ▶ **Rate of 4% for Turnover above Rs. 50,00,000 – RD BAKER**
- ▶ **Rate of 6% for Turnover above Rs. 50,00,000 – URD BAKER**
 - ▶ For the purpose of calculation of Rs. 50,00,000, the value of tax-free goods are to be excluded
 - ▶ **E.g.** rolls, slices (toasted or otherwise) bread in loaf

- ▶ Hotels/Restaurants are eligible for composition scheme without any turnover limit

MISCELLANEOUS CHANGES

- ▶ Return acceptance order to be issued to the dealers on fulfillment of following 2 conditions:
 - ▶ Dealers who have filed returns within the stipulated period
 - ▶ The dealer's case has not been selected for assessment

- ▶ E-commerce companies to provide details of goods purchased-sold to the sales tax department.
 - ▶ A format for this purpose is awaited.
 - ▶ States like Delhi, Rajasthan, Haryana, Kerala have issued circulars in this regard
 - ▶ Details in prescribed forms in these states have to be filed

- ▶ Levy of CST to be exempted on the inter-state sales effected from the logistic hubs
 - ▶ A logistic hub to be set in the Nagpur region had been proposed last year

MISCELLANEOUS CHANGES

▶ AMNESTY SCHEME - MVAT

- ▶ Applicable for those dealers who has **filed an appeal** and the **recovery of disputed dues is stayed** by the appellate authority
- ▶ The scheme shall be available if the dealer withdraws the appeal
- ▶ The scheme shall not be available for TAX DUES
- ▶ The scheme shall be available from 1 April 2016 to 30 September 2016
- ▶ The details of the scheme has been encapsulated as under:

Sr. No.	Period of Dispute	Amount to be paid by dealer	Amount waived
1	Before 1 April 2005	100% of disputed tax	Interest and Penalty
2	1 April 2005 to 31 March 2012	100% of disputed tax + 25% of disputed interest	Balance Interest(75%) AND Penalty

CHANGES IN OTHER LOCAL TAXES - MAHARASHTRA

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➤ ENTRY TAX

- Entry tax is proposed to be levied on Marble and Granite Slabs at the rate of 12.5% w.e.f 1 April 2016 – Notification has been issued

➤ PROFESSION TAX – AMNESTY SCHEME

- An amnesty scheme is being proposed for encouraging persons not enrolled with the PROFESSION TAX DEPARTMENT
- A person enrolling between 1 April 2016 to 30 September 2016 would be required to pay profession tax and penalty only for three preceding financial years

➤ SUGARCANE PURCHASE TAX

- Exemption from Sugarcane Purchase Tax for the year 2015-16
- Such exemption shall be available only to those sugar factories who meet the export obligations as per Government policy

CHANGES IN OTHER LOCAL TAXES - MAHARASHTRA

▶ MOTOR VEHICLE TAX

- ▶ Motor vehicle tax to be levied on the basis of engine capacity:

Sr. No.	Capacity	Rate of Tax
1	Up to 99 c.c.	8%
2	100 c.c. to 299 c.c.	9%
3	Above 300 c.c.	10%

Note:

Tax on vehicles in the name of companies, undertaking, etc. as well as imported vehicles shall be **twice** the respective rates

CHANGES IN OTHER LOCAL TAXES - MAHARASHTRA

▶ LOTTERY TAX

Sr. No.	Particulars	Old Amount of Tax	New Amount of Tax
1	Weekly Draws	60,000	70,000
2	Fortnightly Draws	1,25,000	1,50,000
3	Draws between week and fortnight	1,25,000	1,50,000
4	Monthly Draws	2,50,000	3,50,000
5	Draws between fortnight and month	2,50,000	3,50,000
6	Bumper Lottery Scheme	12,00,000	14,00,000

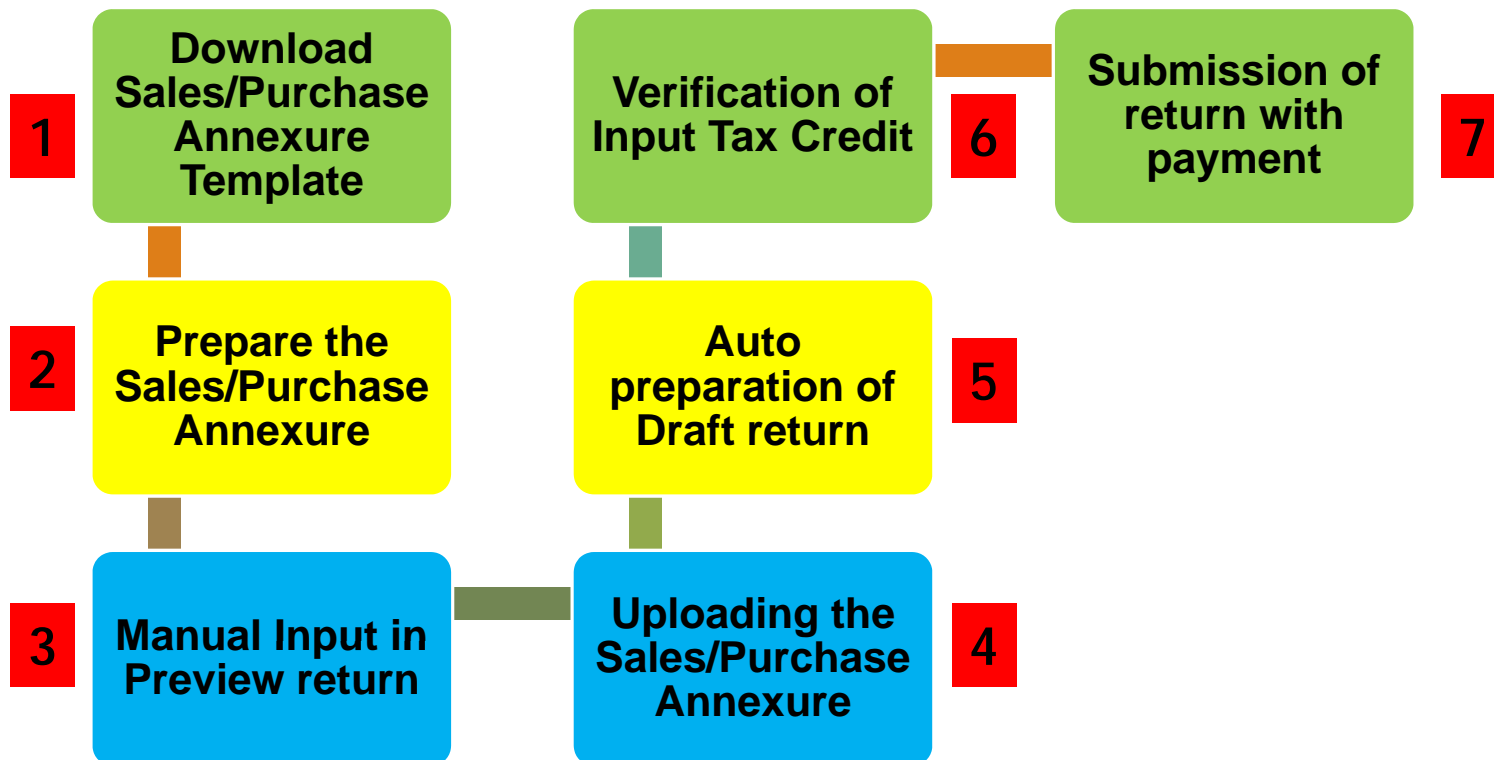
CHANGES IN MVAT RETURN FILING PROCEDURE

CHANGES IN MVAT RETURN FILING PROCEDURE

- ▶ New templates of annexures and returns in Form 231, Form 232, Form 233, Form 234, Form 235 and CST Form III(E)
- ▶ All dealers are required to file the annexures before submission of returns
- ▶ Composition dealers are required to file only purchase annexure
- ▶ The dealers can make advance payment before online filing of the return


CHANGES IN MVAT RETURN FILING PROCEDURE

➤ The general steps for filing the MVAT returns is as under:



CHANGES IN MVAT RETURN FILING PROCEDURE

➤ Important Points while Filing the MVAT Return

- Sales Annexure/Purchase Annexure to be prepared only in standard format as prescribed 
- The dealer is required to select the correct code for the transaction for proper disclosure in the MVAT Return
- The general transaction codes in the **SALES ANNEXURE** common for all returns are:

Sr. No	Transaction Code	Nature of transaction
1	100	For sales to TIN Holder (Local/Interstate excluding against Form/Declaration)
2	200	For sales to Non-TIN Holder (Local/Interstate)
3	300	For Branch Transfer
4	800	For deduction u/s 3(2) i.e. turnover of sales before crossing the threshold limit

CHANGES IN MVAT RETURN FILING PROCEDURE

Sr. No	Transaction Code	Nature of transaction
5	600	For Goods return(applicable in case of transactions under code 100, 200, 800)
6	680	For Goods return(applicable in case of transactions under code 300)
7	700	For Credit Notes (applicable in case of transactions under code 100, 200, 800)
8	780	For Credit Notes (applicable in case of transactions under code 300)

CHANGES IN MVAT RETURN FILING PROCEDURE

WCT RELATED TRANSACTION CODES – FORM 233

Sr. No	Transaction Code	Nature of transaction
1	400	Composition u/s 42 (1), (2)
2	480	Amount of sub-contract where tax is paid by sub-contractor
3	450	Works Contract Composition u/s 42(3), (3A)
4	600	Goods return for transaction code 400
5	700	Credit Note for transaction code 400
6	690	Goods return for transaction code 450
7	790	Credit Note for transaction code 450
8	460	Ongoing Works Contract
9	470	Ongoing Lease Contract
10	490	Amount of sub-contract where tax is paid by sub-contractor

CHANGES IN MVAT RETURN FILING PROCEDURE

▶ TRANSACTION CODES – FORM 234

Sr. No	Transaction Code	Nature of transaction
1	500	PSI Exempted sales

▶ TRANSACTION CODES – CST FORM III(E)

Sr. No	Transaction Code	Nature of transaction
1	100	Sale to TIN Holder without declaration
2	200	Sale to Non-TIN Holder
3	600	Goods Return for codes 100, 200, 900
4	700	Credit Notes for codes 100, 200, 900
5	900	Sale Against C FORM
6	300	Branch transfer

CHANGES IN MVAT RETURN FILING PROCEDURE

▶ TRANSACTION CODES – CST FORM III(E)

Sr. No	Transaction Code	Nature of transaction
7	680	Goods Return for code 300
8	780	Credit Note for code 300
9	910	Sales outside the state
10	610	Goods Return for code 910
11	710	Credit Note for code 910
12	920	Sales in transit – Section 6(2) of CST Act, 1956
13	620	Goods Return for code 920
14	720	Credit Note for code 920
15	930	Sale to consulate (Inter-state)
16	630	Goods Return for code 930
17	730	Credit Note for code 930

CHANGES IN MVAT RETURN FILING PROCEDURE

▶ TRANSACTION CODES – CST FORM III(E)

Sr. No	Transaction Code	Nature of transaction
18	940	Sales against H Form
19	640	Goods Return for code 940
20	740	Credit Note for code 940
21	950	Direct Exports
22	650	Goods Return for code 950
23	750	Credit Note for code 950
24	960	High Seas Sales
25	660	Goods Return for code 960
26	760	Credit Note for code 960
27	970	Sales against I Form
28	670	Goods Return for code 970
29	770	Credit Note for code 970

CHANGES IN MVAT RETURN FILING PROCEDURE

▶ TRANSACTION CODES – CST FORM III(E)

Sr. No	Transaction Code	Nature of transaction
30	500	PSI Exempted Sales
31	600	Goods Return for code 500
32	700	Credit Note for code 500

CHANGES IN MVAT RETURN FILING PROCEDURE

▶ TRANSACTION CODES – PURCHASE ANNEXURE- ALL TYPES OF RETURN

Sr. No	Transaction Code	Nature of transaction
1	10	Purchase from TIN Holder – Normal Goods
2	15	Purchase from TIN Holder – Capital Goods
3	20	Purchase from Non-TIN Holder (URD Purchase)
4	30	OMS Branch Transfer (Stock In)
5	35	Local Branch Transfer
6	40	Purchase against C FORM
7	45	Within the state purchase against C FORM (Purchase in transit u/s 6(2))
8	50	OMS Purchase against H FORM
9	55	Local Purchase against H FORM
10	60	Direct Imports

CHANGES IN MVAT RETURN FILING PROCEDURE

▶ TRANSACTION CODES – PURCHASE ANNEXURE- ALL TYPES OF RETURN

Sr. No	Transaction Code	Nature of transaction
11	65	Imports
12	70	OMS Purchase without Form/Declaration
13	75	OMS Purchase against Form I
14	80	For deduction u/s 3(2), turnover of purchases before crossing threshold limit
15	90	Goods Return for codes 10,15,80
16	95	Debit Notes for codes 10,15,80
17	91	Goods Return for code 20
18	96	Debit Notes for code 20
19	31	Goods Return for code 30
20	32	Debit Notes for code 30

CHANGES IN MVAT RETURN FILING PROCEDURE

▶ TRANSACTION CODES – PURCHASE ANNEXURE- ALL TYPES OF RETURN

Sr. No	Transaction Code	Nature of transaction
21	41	Goods Return against C FORM
22	42	Debit Note against C FORM
23	46	Goods Return for code 45
24	47	Debit Note for code 45
25	51	Goods Return for code 50
26	52	Debit Note for code 50
27	56	Goods Return for code 55
28	57	Debit Note for code 55
29	61	Goods Return for code 60
30	62	Debit Note for code 60

CHANGES IN MVAT RETURN FILING PROCEDURE

▶ TRANSACTION CODES – PURCHASE ANNEXURE- ALL TYPES OF RETURN

Sr. No	Transaction Code	Nature of transaction
31	66	Goods Return for code 65
32	67	Debit Note for code 65
33	71	Goods Return for code 70
34	72	Debit Note for code 70
35	76	Goods Return for code 75
36	77	Debit Note for code 75

CHANGES IN MVAT RETURN FILING PROCEDURE

- ▶ In the sales annexure, the date of sales invoice should be within the return period as selected in the header
- ▶ In case of “Goods Return” the date should be within 6 months from the annexure period
- ▶ In case of “Credit Notes” previous date to the annexure period is acceptable
- ▶ No future date is acceptable in the Sales/Purchase Annexure

CHANGES IN MVAT RETURN FILING PROCEDURE

- ▶ Auto Population of the MVAT/CST Return from the sales/purchase annexure
- ▶ The following details can be manually be filled up by the dealer:
 - ▶ Amount of set-off not admissible u/r 52A
 - ▶ Amount of set-off not admissible u/r 52B
 - ▶ Reduction in set-off u/r 53
 - ▶ Denial in set-off u/r 54
 - ▶ Set-off not claimed on certain local purchases
 - ▶ Tax collected at source u/s 31A
 - ▶ Adjustment on account of MVAT Payable (Form 234 against 231)
 - ▶ Adjustments in relation to the Entry Tax
 - ▶ Excess amount of tax paid – carried forward

QUESTIONS ???

THANK YOU !!!