

INPUT CREDIT **UNDER MVAT**

Presentation by
CA N M BANSAL
nmbansal@gmail.com

At
STUDY GROUP OF
J B NAGAR CPE STUDY CIRCLE
on 18.01.2014

Input Tax Credit (ITC)

- Enabling provisions – sec 48
 - State Govt. may, by rules, provide
- Tax paid
 - under earlier law
 - goods + cap. Goods
 - under MVAT Act, 2002
 - entry tax on motor vehicles
 - entry tax on other items – like petroleum products
- S.P. may be reduced for levy of tax
 - purchases from exempted unit (PSI)

SET OFF

- Concept under BST Act has undergone a sea change
- Concept of Set off is de-linked from manufacture etc., except few instances.
- Section 48 does not make it compulsory for the State Government to provide rules for the set-off.

GENERAL CONDITIONS – ITC

Rule 55

- Claimant dealer must be a RD:
 - Rule 55(1)(a) is amended from 8-9-06. After amendment, the dealer is eligible to claim set-off of tax paid on purchase of goods effected from registered dealer during the URD period also if in stock on date of Regn.
 - Recast on 31.10.2007.
 - Effective from 08.09.2006

- URD at the time of purchase...
 - Set off available only if goods purchased/entered after 1st April of the year in which dealer has obtained registration and
 - Treated as Capital assets & not sold before date of Regn.
 - Other than Capital assets & have not been sold/disposed off.
 - If goods are used or consumed in manufacture & manufactured goods have not been sold before the date of effect of RC.
 - Maintain a true account of all the purchases in chronological order of goods showing the details
 - Produce the original invoice/ bill/ cash memo [Tr.Cir.30T (23/09/05): Sp. Relief]
 - Rule 55(3) : Adjustment of set-off
 - Rule 55(5) : FIFO method in absence of Identification
 - No case ITC to exceed amount paid in treasury.
 - Refund 1st to be adjusted against o/s liability
 - Tax deferred – deemed as received in treasury.
 - Advance tax deposited – eligible for adjustment against VAT/CST/ET payable during the year.

ITC – Purchases after 1.4.2005

Rule 52

- What is eligible U/r 52?
- RD purchases for mfg, trading, works cont., lease
 - tax paid separately + tax invoice of goods
 - capital assets
 - goods – purchases debited to P & L A/c
 - trading goods
 - RM, parts, components, spares
 - packing material
 - fuel
 - entry tax paid (M. Vehicles + others)
- In respect of purchases or entry of goods made on or after 1st April,2005, no specific use of goods have been prescribed.

- Goods eligible for grant of set-off under this Rule
- Purchase of any goods being capital assets or debited to trading or profit and loss account is eligible for set-off.
- Set-off under this Rule is available
 - subject to reduction of set-off as specified in Rule 53 and
 - subject to non-admissibility of set-off as provided in Rule 54 of the MVAT Rules, 2005.

REDUCTION/ DEDUCTION OF SET-OFF

RULE 53

- General Retention rate for Rule
 - 4% From 1.4.2005 to 31.03.2007
 - 3% thereafter [except rule 53(4)]
 - 2% From 8.06.08 [In Rule 53(2) & (3)]
- Remember : As per rate under Section 8(1) under CST Act, 1956 – sale against Form C
 - 2% from 1-6-2008
 - Retention rate not reduced to 2%

REDUCTION IN SET-OFF

RULE 53

Rule No	Event of Contingency for	w.e.f	Reduction by
53(1)	Taxable goods used as fuel	1.4.2007	3% of corresponding purchase price
53(2)(a)	Dealer manufacturing tax-free goods (if sugar or fabric) manufactured is exported u/s 5 of CST Act then such reduction does not apply)	1.6.2008	2% of corresponding purchase price (not on capital Assets)
53(2)(b)	Dealer reselling tax-free goods	1.6.2008	2% of Purchase Price of corresponding purchases of Packing Materials
53(3)	Dealer dispatching taxable goods to other states, under form-F (if the goods are brought back in Maharashtra within 6 months, whether after processing or otherwise, then such reduction does not apply)	1.6.2008	1] 2% of Purchase Price of corresponding taxable goods (Not on Capital Assets or Fuel) 2] if the goods dispatched are covered by Schedule B (Gold, Silver, Jewellery, Diamond, etc.) then reduction shall be at 1%
53(4)	Works Contractor paying tax, opting Composition scheme u/s 42(3)	20.6.2006	Corresponding Setoff be reduced by 36% (No reduction on Capital Assets and on goods in which Property is not transferred) Where the dealer has opted to pay composition at 5% on Construction Contracts, Setoff shall be reduced by 4% of such purchase Price

53(5)	When the business is discontinued fully (such reduction does not apply when the business is sold partly or fully)	1.4.2005	No Setoff on goods held in stock on the date of discontinuance. (such reduction does not apply to Capital Assets)
53(6)	If the Receipts on account of Sale are less than 50% of Total Receipts Receipts means the receipts pertaining to all activities including business activities carried out in Maharashtra, but does not include the value of Stock Transfer under Form F	8.9.2006	1] Setoff allowed only on those purchases (and Packing materials) effected in that year where the corresponding goods are sold or sent on Form F, within 6 months of the date of purchase. 2] in case of hotels and clubs, Setoff on purchases of Capital Assets and Consumables pertaining to Kitchen and services of Food and Drink, is allowable
53(7A)	Purchase of Office Equipment, Furniture or Fixture treated as Capital Assets	1.4.2007	1] Setoff shall be reduced by 3% of Purchase Price of such asset 2] No such reduction, if dealer is engaged in the business of transferring the right to use them. 3] Purchases of all other movable Business Capital Assets are eligible for full Setoff
53(7B)	The Dealer holding a license for transmission or distribution of Electricity under Electricity Act,2003, shall be liable for setoff reduction:	1.06.2008	2% of purchase price of goods purchased for use in transmission /distribution of Electricity, including on CapitalAssets

ITC – NEGATIVE LIST

Rule 54

- No Set-off on certain goods specified in this Rule or if any contingency specified in this Rule occurs
- R 54(a) :Motor Vehicles :On passenger vehicles, treated by the claimant dealer as capital assets and parts, components and accessories thereof
 - N.A. for dealer in M. Vehicles, Leasing Co.
 - [54(b)]Motor spirits N.A. for dealers in Motor Spirits & dispatches as stock transfers outside Maharashtra
- [54(c)]Crude oil– used by petroleum oil refinery for refining oil
- [54(d)]Dealer principally engaged in job-work or labour
 - not paying tax as works contractor
 - not engaged in manufacturing of goods for sale by him.
 - Set-off is not available on any purchases of consumables or on goods treated as capital assets
- Rule 54(e):PSI units (exemption + deferral unit)
 - purchase of 'raw material' - as per Rule 80
 - to claim refund
 - eligible for capital assets purchases
 - Acc. to amendment on 31.10.2007 – Exception provided for PSI Units under Tourist Projects, 1999

Rule 54(f): items covered by entries 3 and 4 of the Notification issued under entry 39 of SCHEDULE entry appended to the Maharashtra Value Added Tax Act, 2002

Import Licences incl. SIL, DFA and Exim Scrips, Export Permits, (DEPB),

- SIM Cards from 8.9.2006.
- Software packages in the hands of dealer who is trading in software.
- From 8.9.2006, Purchase of copyright which is resold within twelve months of the date of purchases is eligible for set-off
- Credit of DFRC w.e.f. 31.10.2007

- . Entry inserted for taxation on 12.01.2007
- . Credit of DFIA w.e.f. 02.07.2007
 - . As on today set off not available
- Rule 54(g): No set-off in respect of purchases effected by way of works contract which results in immovable property.
 - Under this sub-Rule, the set-off is denied to purchaser of goods; i.e., contractee .The contractor will get the set-off as per the provisions of law.
 - . Sub-rule (g) is substituted from 8.9.2006 it shall not be disallowed in case of plant and machinery.
- Rule 54(h): No set-off on purchases of any goods in which property is not transferred (either in same form or any other form) to any person and which are used in erection of immovable property other than plant and machinery.
 - This is corollary of earlier clause.
- Rule 54(i) :Liquor Dealer opting for composition :
No set-off to the dealer under composition Sec.42(2), on purchases of IMFL or Country Liquor.
- Rule 54(j) :Mandap Contractors under Composition u/s. 42(4): No set-off on purchase made on or after 20.6.2006 of Mandap, Material used for Decoration of Mandap and Furniture,Fixtures, and other articles ordinarily used along with a Mandap
- Rule 54(k): Hotelier: Added from 8.9.2006, in case of an Hotelier, set-off will not be allowed on purchases of any goods after 1.4.2005, which are treated as Capital Assets, not pertaining to supply by way of or as part of service in any other manner, of food or any drink (including liquor).
- R[54(l)] – office equipment, F & F and electrical installations – 1.4.05 to 7.9.06 – treated as capital assets.
 - Leasing of these goods not subject to disallowance of set off.

Thank you