

# Issues in MVAT Audit– J B Nagar CPE Study Circle of WIRC

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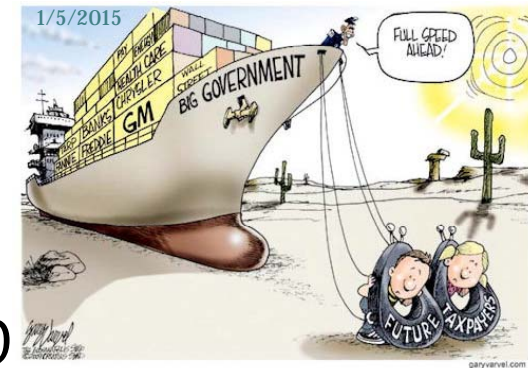
# Matters to be covered



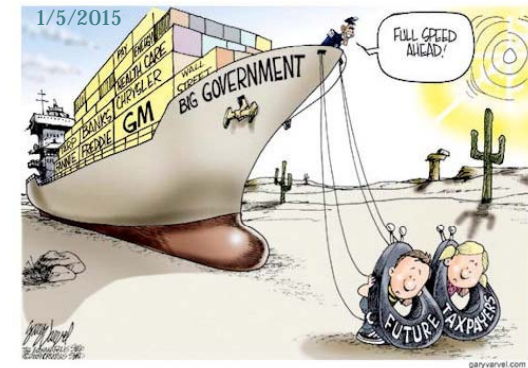
- ❑ Issues in MVAT Audit
  - ✓ Turnover basic Limit
  - ✓ Types of transactions
  - ✓ Declaration Forms
  - ✓ Set off issues
  - ✓ Goods return
  - ✓ Issues Faced by Rellers
  - ✓ Issues faced by MNCs

## Turnover Basic Limit

- ✓ Sales & Purchase any one exceeds 60
- ✓ Sale of Fixed Asset
- ✓ Sale by Deemed Dealers like Banks, Customs department etc
- ✓ Purchase Turnover includes... Expenses, Fixed Asset
- ✓ Recoveries from Employees
- ✓ Poser: Branch Transfer Valuation ?
- ✓ Slump Sale, Allotment of Fixed Asset to partners on dissolution



# Turnover Basic Limit



## Issue 1:

Ankita Traders is a general store dealing in Taxable as well tax free goods. For FY 2013-14, Taxable sales excluding tax was 70 Lacs and tax free sales was 40 Lacs. Will Ankita Traders fall under VAT Audit? What if Ankita traders deals only in Tax free goods?

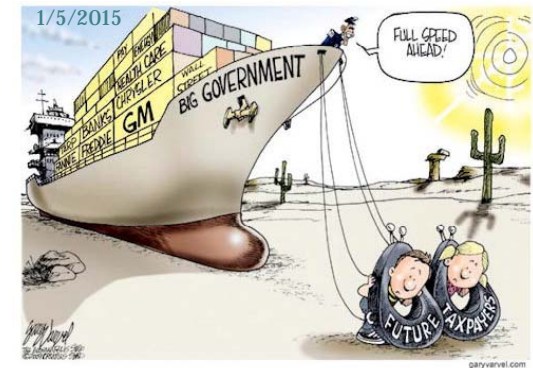
# Turnover Basic Limit

## Reply Issue 1:

### Section 61 of the MVAT Act:

Every dealer liable to pay tax shall,- <sup>1</sup>[(a) if the,-

- (i) aggregate of his turnover of sales and the value of goods transferred to any other place of his business or of his agent or principal, situated outside the State, not by reason of sale, or



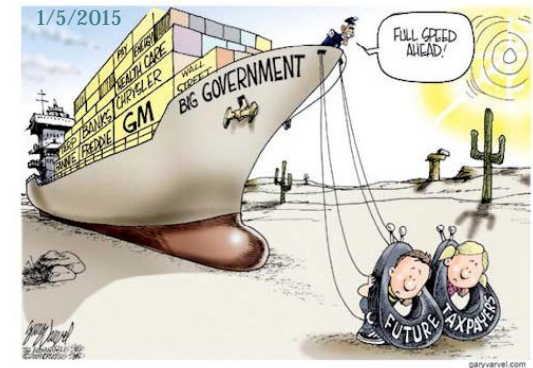
## Turnover Basic Limit

(ii) turnover of purchases,

exceeds rupees one crore in any year;] get his accounts  
in respect of such year audited

**Sec 2(33) of the MVAT ACT :**

Turnover of sales means the aggregate of the amounts of sale price received and receivable by a dealer in respect of any sale of goods made during a given period.

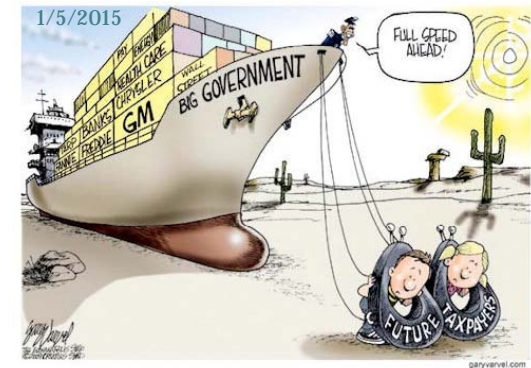


# Turnover Basic Limit

Sec 2(25) of the MVAT ACT :

sale price means the amount of valuable consideration paid or payable to a dealer for any sale made including any sum charged for anything done by the seller in respect of the goods at the time of or before delivery .

Sale price shall not include tax paid or payable



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# Types of Transactions



## Issue 2:

Mahi Creations, a Readymade Garment Manufacturer has branches all over India. They receive order from various branches. Goods are then dispatched from Factory to individual branches and then sold to customers. Form F is issued to the Factory to avoid double taxation. Transfer to Branch but Form F disallowed saying it is predetermined sale. Contd...



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# Types of Transactions



So Dealer issued Form C and claimed as inter state sale. But that also disallowed saying cannot issue Form C to self. And levied full rate of tax applicable in the state on those goods. Matter in court, decision still pending. As an Auditor how will you treat the transaction and how will you report in the VAT Audit Report?

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# Types of Transactions



## Reply to issue 2:

Following points needs to be considered:

- ✓ As per sale of Goods Act, Sale is complete only when there is **involvement of two parties**. A dealer cannot sale to himself.
- ✓ A transaction is either a **sale or a tranfer**.
- ✓ Goods are **occasioning the movement** from one state to another as a result of sale. Hence a inter state sale.

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# Types of Transactions



- ✓ While auditing we need to properly scrutinize the transaction and give the color accordingly to avoid further litigation.
- ✓ Pre determined sale cannot be treated as branch transfer.
- ✓ Since the decision is pending in the court reference also needs to be made in Form 704.

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# Declaration Forms



## Issue 3:

Jethalal Steel sold goods to Babita sales at Gujarat. He levied 2% CST as he sold on C-Form. Babitaji issued C-Form to jethalal. And he accepted without checking the form. While doing VAT Audit you found that C-Form from Babitaji is defective. How will you treat this transaction? Will you allow the C-Form or not? As department will definitely disallow it.

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# Declaration Forms



## Reply to Issue 3:

There are 3 options available:

- ✓ You disallow the Form and make Jethalal pay full rate of tax.
- ✓ You request Jethalal to rectify the C-Form by sending it back to Babitaji and you put the transaction in Anxl
- ✓ You allow the Form and put a negative remark in option (i) in Part 1

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# Declaration Forms



## Issue 4:

Seller dispatches goods outside state on 29<sup>th</sup> September.  
Buyer receives goods on 2<sup>nd</sup> October. Buyer records goods on 2<sup>nd</sup> October and issues Form C for Q3 to the seller. Where as the seller records the transactions on 29<sup>th</sup> September and pays 2% tax accordingly. How will you treat this transaction while doing VAT Audit?

# Goods Return



## Issue 5:

Buyer returns goods found defective before 6 months. Goods are received but recoded after 7 months. Is the deduction available. Is the Auditor suppose to certify the report as it effects the tax liability. What documents as an Auditor you would check to prove the credibility of transacion?

# Goods Return



## Reply to Issue 5:

As an Auditor verify the documents for receipt of goods. There may be delay in recording of transaction but if receipt of goods is proved within time goods return are allowed. It is advisable to give a remark relating to the transaction.



# Set off Issues..

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## Issue 6:

While auditing the books of Asha Traders you come across Suspicious dealers, Nonfilers, and short filers in Annexure J2. how will you treat each transaction?

Do you need to verify Annexure J2 with the details on site. Are you expected as an auditor to do the exercise?

## Set off Issues..

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### Issue 7:

M/s. Saif Enterprises had entered into an AMC contract with M/s. Kareena Packaging for Computer maintenance levying both VAT & Service tax. The term of the contract is from March 2014 to February 2015. Hence in FY 2013-14 M/s. Saif Enterprises had debited the expense to Computer Maintenance and at the year end transferred appropriate amount as prepaid expenses.

# Set off Issues..

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## Issue 7:

Whether M/s. Saif Enterprises can claim full vat set off in FY 2013-14 itself or the same is to be claimed on proportionate basis in both the years?

At the end of contract if no material is transferred and no sale takes place then Is the set off taken to be reversed?

## Set off Issues..

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### Issue 8:

You are an Auditor of Jethalal Steel. While Auditing you discover that Goods are ordered from an Agent Iyer. The agent Delievers the Goods alongwith tax Invoice of Babita. Name of Babita appears in the list of Suspicious Dealers. What advise you would give as an Auditor?

# Set off Issues..

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## Issue 8:

Babita claims that she has paid the Tax on goods sold to Jethalal and declared his Turnover in returns. What position you will take as an Auditor?

Will department allow full set off?

# Set off Issues..

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## Issue 9:

M/s. ABC Corporation had purchased Machinery in the month of March 2014, bill for the same is received and recorded in books of account in the same month. However the said machine was not put to use and hence was shown as Capital WIP in audited accounts. when can the set off be taken?

# Set off Issues..

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## Issue 9:

Suppose M/s. ABC Corporation had not claimed MVAT set off on the said purchase in FY 2013-14 returns and filed. The said machine is to be installed and put to use in the month of May 2014. Can set off be taken in May 2014? As an Auditor what will you advise? Assume contract is for purchasing and installing the machine.

# Set off Issues..

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## Issue 10:

As an Auditor of J W Marriott, will you allow set off on Following Purchases for Restaurant:

- a. Kitchen Equipments,
- b. Office Equipments,
- c. Furniture & Fixtures,
- d. Raw materials,
- e. Packing Materials, Expenses debited to P&L A/c.



# Set off Issues..

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## Issue 10:

For Hotel business: Office Equipments, Furniture & Fixtures, Curtains, Bed Sheets etc. which are capitalized in Balance Sheet.

Whether set off on purchase of refrigerator kept in a hotel room wherein drinks (soft+hard) are kept for the purpose of sale would be eligible for set off ?

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# Issues faced by Resellers

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## Issue 11:

Retailers of FMCG goods not under composition

Issuance of Tax Invoice as per sec 86(1) read with Rule 77(1)

Discount Scheme offered. Cash Discounts cannot be reduced from sale price while levying VAT.

## Issues faced by Resellers

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Recording of sales & Purchase in accordance with Accounting Standards.

Terms of Agency contracts if taken.

Maintainence of records of Goods returned as well Dr/Cr Notes issued.

# Issues faced by MNCs

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## Issue 12:

Mahindra Company uses Centralised Billing system and follows Sap system of accounting. Invoices are serially numbered but centrally. Hence in one particular branch Invoices raised are not serially numbered. As an Auditor how will you deal with this situation? Is there any penalty involved?

# Issues faced by MNCs

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## Issue 13:

For an MNC the Sales Office is different, Purchase office is different, and the warehouse is different. Orders are procured by sale Office which intimates the Purchase office to purchase the goods, which in turn intimates the ware house who records when the goods move in and also sells the goods to the destination intimated by the sales office.

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# Issues faced by MNCs

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## Issue 13:

Data for return comes from ware house where details for goods moved in and moved out is recorded. Hence returns are filed on that basis.

at the year end details are compiled at the head office from all the ware houses and accounts prepared.

As an VAT auditor what precautions needs to be taken at year end to compile the data and reconcile it?

# Major Changes in Form 704

There are two major changes:

1. Annexure J5: column 4 – Transaction Type: Sale in course of Import is introduced. Hence now it is High seas Sales, sale in course of import and Direct exports
2. Annexure J6: Column 4 – Transaction Type: Local Purchase against Form H is added. Thus bifurcating it as OMS Purchase.



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# Happy Weekend from

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