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Revenue Audit Manual

Value Added Tax-Uttar Pradesh

Departmental Procedure & Audit Scrutiny

**First Edition
(2011)**



Issued by:
Authority of Accountant General
(Commercial & Receipt Audit)
Uttar Pradesh, Lucknow



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Rebuttal - गलत

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PREFACE

This Manual has been prepared for guidance of the officers and staff auditing value added tax receipts and refunds. In this Manual, the relevant provisions of the law and the procedure for levy, assessment and collection of value added tax have been set out.

Whenever in the course of audit, reference has to be made to the Act or the rules framed thereunder; such a reference should be to the sections of the Uttar Pradesh Value Added Tax Act or the Rules framed thereunder and not to the paragraph of this Manual.

2. The material contained in this Manual may require modification in the light of further experience gained in the course of audit and subsequent orders and instructions issued by the State Government and Commissioner Commercial tax.
3. The Receipt Audit wing (State) will be responsible for keeping the Manual up to date.
4. The Manual should be treated as a guide only and the audit checks indicated should not be taken as exhaustive.
5. Errors or omissions in the Manual may be brought to the notice of Accountant General (C&RA) U.P. to whom suggestions for improvement may also be sent.
6. Some practical examples of Audit observations/paragraphs have also been given at the end of the chapters 5, 7, 11 & 12.

On behalf of this office I express my appreciation and thanks to Shri H.C. Rathore, Sr.A.O., Retired, who collected all the information and resource material and prepared this manual. His contribution has been immense and the work would not have been possible without his hardwork and dedication.

Place: Lucknow

Dated: December 2, 2011

(Dr. Smita S. Chaudhri)

Accountant General (C&RA) U.P.

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VAT Manual

The Uttar Pradesh Value Added Tax, 2008

An Act to provide for introducing Value Added system of taxation of the levy and collection of tax on sale or purchase of goods in the State of Uttar Pradesh and for matters connected therewith and incidental thereto was brought into effect in Uttar Pradesh w.e.f. 1st January 2008.

CHAPTER-1

Introduction:

- 1.1 (i) According to Article 151 of the constitution on the Comptroller and Auditor General (Duties, Powers and Conditions of Service) Act, 1971 it shall be the duty of the Comptroller and Auditor General to audit all receipts which are payable into the Consolidated Fund of India and of each State and of each Union territory having a Legislative Assembly and to satisfy himself that the rules and procedures in that behalf are designed to secure and effective check on the assessment, collection and proper allocation of revenue and are being duly observed and to make for this purpose such examination of the accounts as he thinks fit and report thereon. The audit of receipts for the Union and of the State is thus a statutory responsibility of the Comptroller and Auditor General of India.
- (ii) The main principles in conducting revenue audit with reverence to the provisions of Section -16 of the Act are:-
 - (a) The Comptroller and Auditor General of India shall audit all receipts that are payable into the Consolidated fund of India and of each State and of each Union Territory.
 - (b) He should satisfy himself that rules and procedures in that behalf are designed to secure an effective check on the assessment collection and proper allocation of revenue.
 - (c) He should be satisfied that the procedures and checks are properly applied, and
 - (d) For the purpose of ascertaining that they are being duly observed he should make such examination of accounts as the thinks fit and report thereon.
- 1.2 It is the primary responsibility of departmental authorities to see that all revenues or other debts due to Government which have to be brought to account are correctly and properly assessed, realised and credited to Government account. Audit should see that any payment for which a party may be liable is actually received and brought to account and that receipts, which have been entered in the books of a department are correctly calculated and are in fact credited to Government account in time. It should also be checked that the executives have not granted unjustified or unauthorized remissions to tax payers.
- 1.3 Audit of revenue differs from expenditure. In the former, attention must be paid not only to examining the records of amounts actually received but also to ascertaining that adequate measures exist for securing that all amounts received or due to be received are properly and promptly brought to account. Since the laws under which the revenue is collected provide for judicial remedy of judicial interpretation, the scrutiny by audit should be generally limited to those matters which are not subjected to judicial processes.
- 1.4 Audit of Value Added Tax (VAT) receipts and refunds is regulated by the general Principles governing the audit of receipts prescribed in chapter 4, Section-II, of Comptroller and Auditor General's Manual of Standing Orders (Audit) and by the provisions of this Manual.

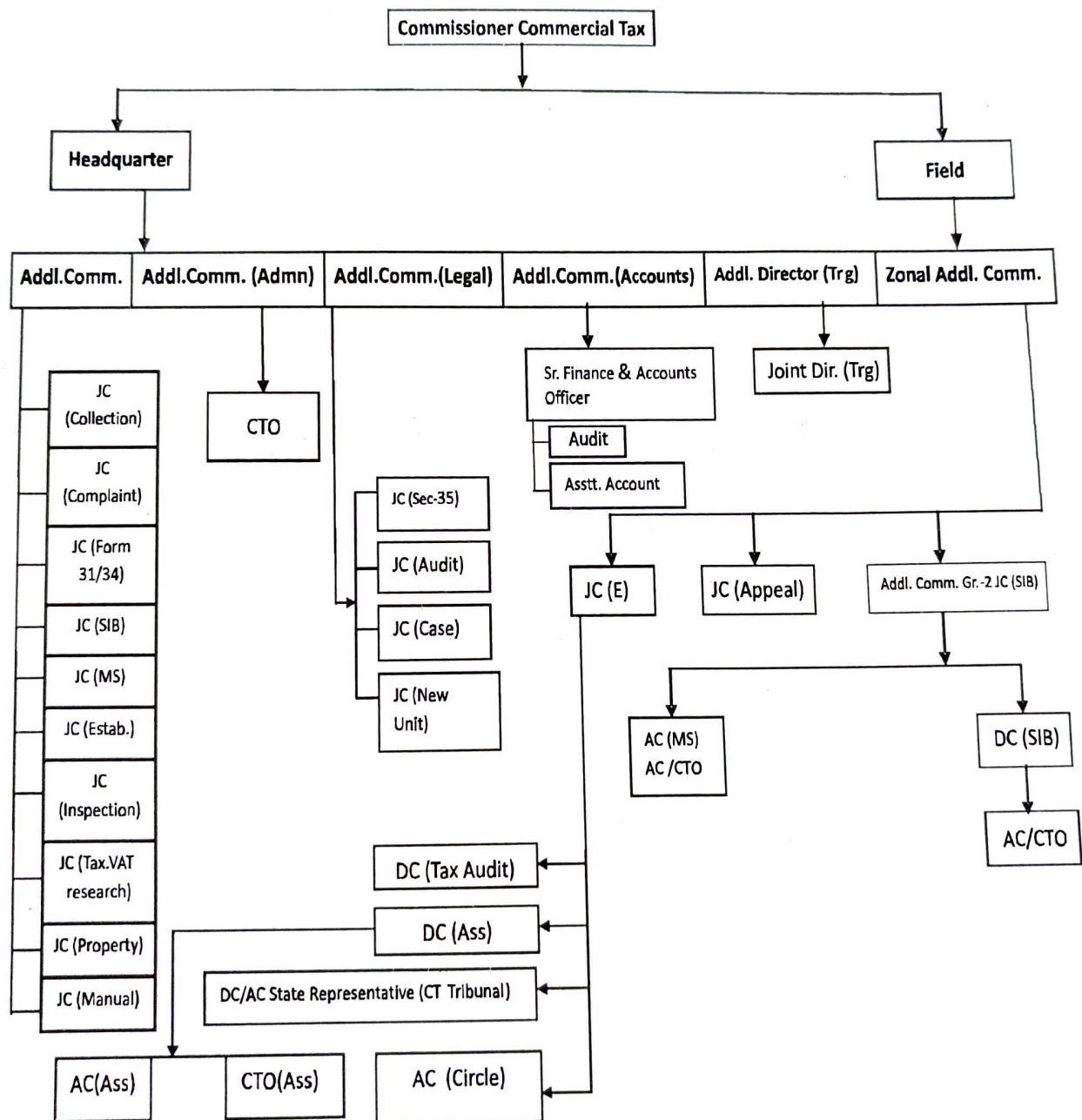
- 1.5 Audit should see that adequate regulations and procedures have been framed by the Commercial Tax (CT) Department to secure an effective check on the assessment, collection of VAT and that such regulations and procedures are in fact being carried out. Audit should also make such examination, as it thinks fit of the correctness of Trade tax revenue brought to account.
- 1.6 The Audit Department should not in any way substitute itself for the revenue authorities in the performance of their statutory duties, but Audit should satisfy in general that the departmental machinery is sufficiently safeguarded against errors or frauds and that so far as can be judged, the procedure is calculated to give effect to the requirements of the law.
- 1.7 Members of the Audit Department will have access to the relevant papers and records of the CT Department, but they should observe secrecy in the same way as officers of the CT Department do.
- 1.8 In relation to VAT Assessment and refunds, Audit has to satisfy by such test checks as it may consider necessary that the internal procedure adequately provide for and actually secure :-
- (i) The collection and utilization of data necessary for the computation of the demands of refunds under the law;
 - (ii) The prompt raising of demand on tax payers in the manner required by law;
 - (iii) Regular accounting of demands, collection and refunds,
 - (iv) Correct accounting and allocation of collections and their credits to the consolidated fund of the State,
 - (v) That proper safeguards exist to ensure that there is no wilful commission of negligence to levy or collect taxes or to issue refunds,
 - (vi) That claims on tax payers are pursued with due diligence and are not abandoned or reduced except with adequate justification and proper authority,
 - (vii) That double refunds, fraudulent or forged refund orders, losses of revenue through fraud, default or mistakes are promptly brought to light and investigated.
 - (viii) That penalty recoverable from the assessee of belated payment of tax is properly calculated in accordance with law and there is no omission to levy or collect the penalty, and in cases where levy of penalty, is discretionary whether such levy was considered by the assessing authority. In the latter case, the quantum of penalty imposed would be the purview of audit.
- 1.9 To discharge these functions effectively the auditor should be conversant with the processes and procedures for levy and collection of tax and the laws and the rules governing such processes and procedures.
- 1.10 In the subsequent chapters of this Manual the basic provisions of law and the rules governing assessment and collection of VAT are set out, this should not however, be regarded as substitute for the act of the rules. For a fuller study he should refer to the provisions of the Acts, the rules made there-under and to the case laws on the subject.

CHAPTER-2

Organization of the Commercial Tax Department

2.1 The Principal Secretary, Kar Evam Nibandhan, Uttar Pradesh, is the administrative head at Government level. The overall Control and direction of the Commercial Tax (CT) Department vest with Commissioner Commercial Tax, Uttar Pradesh with headquarters at Lucknow. He is assisted by Additional Commissioners, Joint Commissioners (JCs), Deputy Commissioners (DCs), Assistant Commissioners (ACs) and Commercial Tax officers (CTOs).

The C.T. Department is divided into two wings. One wing is concerned with the administrative works and the other with the judicial work as per following structure :

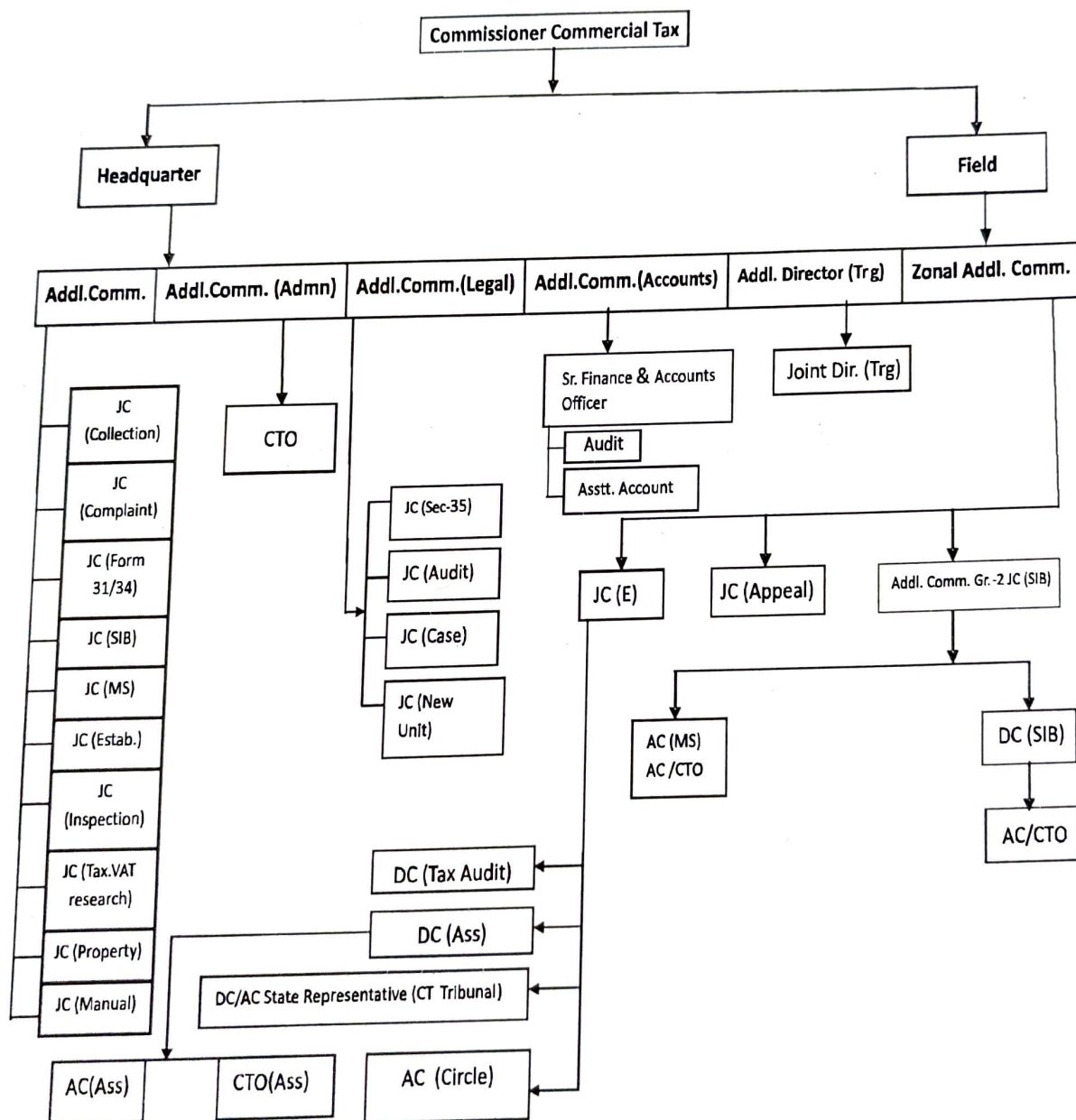


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Field Administration

- 2.2** After implementation of the Value Added Tax Act, the Department has been geographically organized into 20 zones, each headed by an Additional Commissioner and these zones are further divided into 45 regions, each headed by a Joint Commissioner (Executive). A total of 436 sectors, each headed by a Deputy Commissioner, are working in these 45 regions.

Special Investigation

- 2.3** To prevent tax evasion in the CT Department, the units of Special Investigation Branch (SIB) are working under the administrative control of DC (SIB).

CHAPTER-3

Constitutional and certain other aspects

3.1 Article 246 (3) of the Constitution (entry 54 of list II-state list of Seventh Schedule) empowers Legislatures of the States to make laws for the levy of taxes on the sale or purchase of goods. However, according to Article 286 of the Constitution the State is empowered to impose a tax on the sale or purchase of goods whenever such sale or purchase takes place:-

(a) Outside the state: or

(b) In the course of import of the goods into or export of the goods out of the territory of India, Parliament alone is empowered to formulate by law the principles for determining when a sale or purchase of goods takes place in any of the ways mentioned above.

3.2 Further in so far as any state law imposed or authorise the imposition of:-

(a) a tax on the sale or purchase of goods declared by Parliament by law to be of special importance in inter-state trade or commerce (Article 286 (3) (a) of the Constitution)

(b) a tax, on the sale or purchase of goods being a tax on the transfer of property in goods (Whether as goods or in some other form) involved in the execution of a works contract; of (Article 286 (3) (b) and Article 366 (b) of the Constitution)

(c) a tax on the delivery of goods on hire purchase of any system of payment by installment; or

(d) a tax on the transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

(Such transfer, delivery of supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery of supply and a purchase of those goods by the person to whom such transfer, delivery and supply is made).

Such a law is subject to such restrictions and conditions in regard to the system of levy, rates and other incidents of the tax as the Parliament may by law specify.

3.3 Taxes on the sale or purchase of goods (other than newspapers)

Article 269 (1) of the Constitution as inserted by forty sixth Constitutional Amendment Act 1982.

Where such sale or purchase takes place in the course of inter state trade or commerce and taxes on the consignment of goods (whether the consignment is to the person making it to any other person) where such constitutional amendment takes place in the course of inter -state- trade or commerce, being in the Union list.

Article 269 (3) of the Constitution as substituted by forty sixth Constitutional Amendment Act 1982.

Parliament alone is empowered to levy VAT in inter state sales of goods, taxes on sale or purchase of newspapers being also in the Union list, no state can impose a tax on sale or purchase of newspaper.

Parliament may by law formulate principles for determining when a sale or purchase of, of consignment of goods takes place in the course of inter – state trade or commerce.

3.4 Subject to what has been stated in the three foregoing paragraph State Legislature is empowered to levy tax on the sale/purchase of goods.

3.5 To sum up, no state is empowered to impose tax on sale of goods.

(I) If at the time of the sale the goods are in another state.

(II) If the sale occasions export of goods out of India.

(III) If the sale occasions import of goods into India.

(IV) If the sale occasions movement of goods from one state to another ;

(V) If the goods are newspapers ;

(VI) If the goods are those mentioned in Para 3.2(b) ;

(VII) If the goods are consigned in the course of inter state trade or commerce.

3.6 It should be noted that in India no VAT is levied on sales which occasion export of goods out of India or import of goods into India. That no state is in conformity with common prudence.

3.7 Under the powers vested by the constitution of India the Uttar Pradesh Value Added Tax Act, 2008 was enacted by VAT and purchase tax on the sales and purchases of goods taking place in Uttar Pradesh under section [3] of the Act.

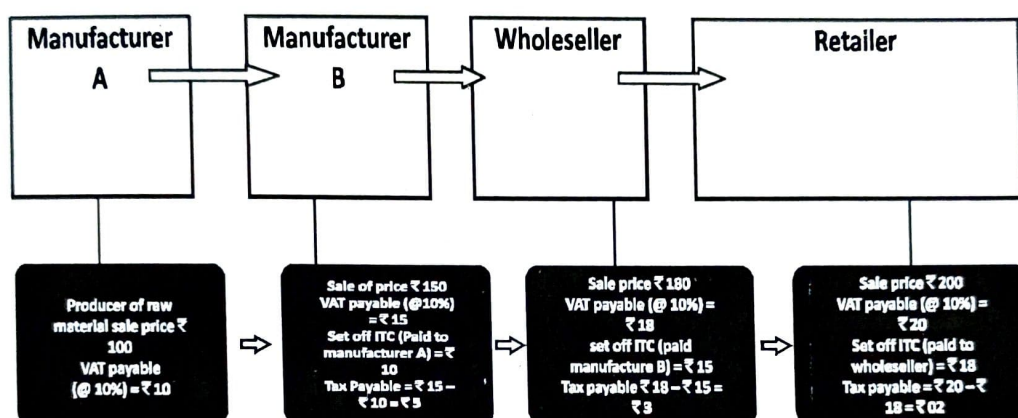
CHAPTER 4

Preliminary

4.1 Value Added Tax :

Value Added Tax (VAT) is a modern and progressive form of sales tax. It is a multipoint tax with provision for granting set off or credit or the tax paid on the purchase against the tax payable on sales. In simple terms 'value added' means the differences between the sale price and the purchase price. Goods pass through various stages in the manufacturing and the distribution chain till they reach the consumer. At each stage, some value is added. VAT works on the principle of tax on the value addition at each such stage. VAT is payable, when there is sale of taxable goods by a registered dealer within the state in course of his business. The tax so charged or collected is shown separated in the books of accounts and should not form a part of the turnover of the dealer. The flow chart given below explains the concept of VAT in a simple manner.

Flow Chart



4.2 Short title extent and Commencement

- This Act may be called the Uttar Pradesh Value Added Tax (U P VAT Act, 2008).
- It shall be deemed to have come into force on 1-1-2008.
- It extends to the whole of Uttar Pradesh (U P).

4.3 Definitions

- "appellate authority" means the authority to whom an appeal lies under Section 55.
- "assessing authority" means any person appointed and posted by the commissioner under rules frame under this Act to perform all or any of the function of the assessing authority under this Act.
- "assessment year" means the period of 12 months commencing on the first day of April of a calendar year.

- (d) **“business”** in relation to business of buying or selling goods includes –
- (i) any trade, commerce or manufacture or any adventure or concern in the nature of trade, commerce or manufacture, whether or not it is carried on with a motive to make profit and whether or not any profit accrues from these.
 - (ii) the execution of any work contract or the transfer of the right to use any goods for any purposes.
 - (iii) any transaction of buying, selling or supplying plant, machinery, raw materials, processing materials, packing materials, empties, consumable stores, waste or by –
products or any other goods of similar nature or any unserviceable or obsolete or discarded machinery or any parts or accessories thereof or any waste or scrap or any of them or any other transaction whatsoever, which is ancillary to or connected with or is incidental, or result from such trade, Commerce, manufacture, adventure or concern, work contract or lease, but does not include any activity in the nature of mere service or profession which does not involve the purchase or sale of goods.
- (e) **“Capital goods”** means any plant, machinery, equipment, apparatus, tool, appliance or electrical installation used for manufacture or processing of any goods for sale by the dealer and includes –
- (i) Components, spare parts and accessories of such plant, machine, machinery, equipment, apparatus, tool, appliance or electrical installation;
 - (ii) moulds and dies;
 - (iii) storage tank;
 - (iv) pollution Control equipment;
 - (v) Refractory and Refractory materials;
 - (vi) Tubes and pipes and fittings thereof;
 - (vii) lab equipments, instrument and accessories;
 - (viii) machinery, loader, equipment, for lifting or moving goods within tractor premises; or
 - (ix) generator and boiler used in manufacture of goods for sale by him but for the purpose of section 13, (input Tax Credit) of this Act, does not include;
 - (1) air conditioning units or air conditioners, refrigerators, air coolers, fans and air circulators if not connected with manufacturing process;
 - (2) an automobile including Commercial vehicles and two or three wheelers, and parts, components and accessories for repair and maintenance thereof;
 - (3) goods purchased and accounted for in business but utilized for the purpose of providing facility of to the employees;
 - (4) vehicle used for transporting goods or passenger or both;
 - (5) capital goods used in execution of work contract.
- (f) **“Commissioner”** means the person appointed by the state government as the Commissioner of commercial taxes (CT)

- (g) **“dealer”** means any person who carries on in U.P. (Whether regularly or otherwise) the business of buying, selling, supplying or distributing goods directly or indirectly, for cash or other valuable consideration and includes –
- (i) a local authority, body corporate, company, any co-operative society or other society, club, firm Hindu undivided family (HUF) or other association of persons which carries on such business;
 - (ii) a factor, broker, arhati commission, agent, delcredere agent or any other mercantile agent by whatever name called, who carries on the business of buying, selling, supplying or distributing goods belonging to any principal whether disclosed or not;
 - (iii) an auctioneer who carries on the business of selling or auctioning goods belonging to any principal whether disclosed or not and whether the offer of the indenting purchases is accepted by him or by the principal or nominee of the principal;
 - (iv) a government which, whether in the course of business or otherwise, buys, sells, supplies, distributes goods, directly or in directly or otherwise, for cash or for deferred payment or for Commission, remuneration or other valuable consideration;
 - (v) any person who acts within the state as an agent of the dealer residing outside the state and buys or sells, supplies or distributes goods in the state acts on behalf of such dealer as-
 - (a) a mercantile agent; or
 - (b) an agent of handling of goods or documents of title relating to goods; or
 - (c) an agent of the collection or the payment of the sale price goods or as a guarantor for such collection or such payment;
 - (vi) a firm or a company or other body corporate, the principal office or headquarter whereof is situated outside the state, having a branch or office in the state, in respect of purchases or sales, supplies or distribution of goods through such branch or office;
 - (vii) any person who carries on the business of transfer of property in goods (whether as goods or in some other form) involved in execution of work contract;
 - (viii) any person who carries on business of transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash or for deferred payment or other valuable consideration;
 - (ix) a railway Container contractor, an air Cargo operator, a Courier service provider, who fails to disclose the name and complete address of consigner or consignee or if discloses such name or address of consigner or consignee is found bogus, forged or not verifiable or the owner or person in charge of a vehicle who obtained authorization for transit of goods from the officer-in charge of entry check post but failed to deliver the same to the officer in charge of the exist check post; [Act No. 11 of 2009 dt 27.2.09]
 - (x) an owner or person in-charge of a godown, cold storage or warehouse who stores commercial goods, other than those of transporters except these referred to in sub - **clause (IX)**.
- (h) **“declared goods”** means goods declared under section-14 of the Central Sales Tax Act 1956(CST) to be of special importance in the inter-state trade or Commerce.
- (i) **“erstwhile Act”** means the Uttar Pradesh Trade tax Act 1948 (U P Act No15 of 1948).

- (j) **“Exempt goods”** means any of the goods mentioned or described in column (2) of the schedule-I Act.
- (k) **“goods”** means every kind or class of movable property and includes all materials, commodities and articles included in the execution of works contract and growing crops, grass, trees and thing attached to, or fastened to anything permanently attached to the earth which, under the contract of sale, are agreed to be served **but does not include auctionable claims, stocks, shares or securities.**
- (l) **“Import”** means to bring or receive any goods at any place within the state from any place situated outside the state where journey of such goods originates from such place outside the state and terminates at any place within the state.
- (m) **“importer”** means a dealer who brings or receives any goods into the state from any place outside the state.
- (n) **“input tax”**, in relation to a registered dealer who has purchased any goods from within the state, means the aggregate of the amount of tax,
 - (i) paid or payable by such registered dealer to the registered selling dealer of such goods in respect of purchase of such goods; and
 - (ii) paid directly to the state government by the purchasing dealer himself in respect of purchase of such goods where such purchasing dealer is liable to pay tax under this Act on the turnover of purchase of such goods.

Provided that tax paid or payable in respect of transfer of right to use any goods shall not form part of the input tax. [Act No 11 of 2009 dt. 27/2/09]
- (o) **“lease”** means any agreement or arrangement whereby the right to use any goods for any purpose is transferred by one person to another (whether or not for a specified period) for cash, deferred payment or other valuable consideration without the transfer of ownership and includes a sub-lease but does not include any transfer on hire purchase or any system of payment of installation.
- (p) **“lessee”** means any person to whom the right to use goods for any purpose is transferred under a lease;
- (q) **“lessor”** means any person by whom the right to use goods for any purpose is transferred under a lease.
- (r) **“manufacture”** means producing, making, mining, collecting, extracting, mixing, bending, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods, but does not include such manufacture, manufacturing process as may be prescribed.
- (s) **“manufacturer”** in relation to any goods mentioned or described in column (2) of schedule IV means a dealer who, by application of any process of manufacture, after manufacture of a new commercial commodity inside the state, makes first sale of such new commodity inside the state, makes first sale of such new commercial commodity within the state, whether directly or otherwise; and includes a selling agent who makes sale such new commodity on behalf of the person who has manufactured it,
- (t) **“non vat goods”** means any of the goods mentioned or described in column (2) of schedule-IV,
- (u) **“place of business”** means any place where a dealer carries on business.
- (v) **“purchase price”** means the amount payable by a purchaser to a dealer as consideration for the purchase of any goods made by or through him after deducting the amount, if any, refunded to the purchaser by the seller in respect of any goods returned to such seller within such period as may be prescribed.

Explanation –

purchase price does not include -

- (i) the amount representing the cost of outward freight or cost of installation, charged by the seller from the purchaser of goods if such amount has been shown separately on sale of invoice or tax invoice issued by the seller;
- (ii) amount of tax if such amount is shown separately on the sale invoice or tax invoice;
- (w) “re-sale” means a sale by any person, of any goods in the same form and condition in which such goods were purchased by such person.
- (x) “sale” means any transfer of property in goods by one person to another, for cash or for deferred payments or other valuable consideration and includes –
 - (i) a transfer, otherwise than in pursuance of a contract of property in any goods for cash, deferred payment or valuable consideration;
 - (ii) a transfer of property of goods involved in the execution of works contract;
 - (iii) the delivery of goods on hire purchase or any other system of payment by instalments;
 - (iv) a transfer of the right to use any goods for any purpose for cash, deferred payment or other valuable consideration;
 - (v) the supply of goods by an association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;
 - (vi) the supply, by way of or as part of any services or in any other manner whatsoever of goods, being foods 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 and such delivery, transfer or supply of any goods under sub-clause (i) to sub-clause (v) above shall be deemed to be sale of those goods by the person making the delivery, transfer or supply and a purchase of those goods by the person to whom such delivery, transfer or supply is made.
- (y) “sale price” means the amount payable to a dealer as consideration for the sale of any goods, less any sum allowed as cash discount according to the practice normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of goods at the time of or before the delivery of such goods, other than cost of outward freight or delivery or cost of installation in cases where such cost is separately charged;

Explanation:

- (i) In a case in which any amount of any duty payable by a dealer is deferred for a period or in a case in which point of payment of any duty is shifted, amount of such duty shall be deemed part of the sale price;
- (ii) The price of packing material in which any goods are packed shall be deemed part of sale price of goods sold;
- (iii) Sale price of goods in relation to transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract, shall be determined after deducting the aggregate of actual amount incurred towards labour and services, amount of profit relating to supply of labours & services and such other amount as may be prescribed from the total amount received or receivable in respect of such works contract;

- (iv) In respect of transfer of right to use goods, any goods for any purpose (whether or not for a specified period) sale price means the valuable consideration received or receivable in respect of such transfer of right to use goods but does not include any sum payable as a penalty or as compensation or damages for breach of contract.
- (v) Tax charged or chargeable shall not form the part of the sale price. [w.e.f. 28.2.2009]
- (vi) Cash or trade discount at the time of sale as evident from the invoice shall be excluded from the sale price but any ex post facto grant of discount of incentives or rebates or rewards and the like shall not be excluded from the sale price.
- (z) "tax" means a tax leviable under this Act, on the sale or purchase or both, as the case may be, of goods other than newspaper; and shall include;
- (i) composition money either at an agreed rate or in lump sum, as the case may be, payable, in lieu of actual amount of tax due on turnover of sales, in accordance with provisions of section 6 or section 6A;
- (ii) amount of reverse input tax credit;
- (iii) the amount of additional tax livable under section 3A. [w. e.f 27.5.2009];
- (aa) "taxable dealer" means a dealer who is liable to pay tax under this Act.
- (ab) "taxable goods" means any goods except goods mentioned or described in column (2) of schedule 1.
- (ac) "tax invoice" means a bill or a cash memo issued in the prescribed form to a registered purchasing dealer or to a person or body referred to in clauses (ii), (iii), (iv) and (v) of sub-section (i) of section 22 in respect of sale of any goods except exempt/non-vat goods.
- (ad) "tax period" means period for which a dealer is liable to submit a tax return of turnover and tax under section 24 and where a dealer either commences or discontinues his business during any tax period, tax period includes part of such tax period during which business of the dealer has remained in existence.
- (ae) "tax return" means any return of turnover and tax prescribed or required to be furnished under this Act or the rules made thereunder.
- (af) "turnover of purchase" means the aggregate of the amounts of purchase prices paid or payable in respect of purchase of goods made by a dealer either directly or through another dealer, whether on his own account or on account of others, after deducting the amount, if any, refunded by the seller in respect of any goods returned to such seller within such period as may be prescribed.
- (ag) "turnover of sale" means the aggregate of amount of sale prices of goods, sold or supplied or distributed by way of sale by a dealer, either directly or through another, whether on his own account or on account of others;
- (ah) "works contract" includes any agreement for carrying out, for cash, deferred payment or other valuable consideration, the building construction, manufacture, processing, fabrication, erection installation, fitting out, improvement, modification, repair or commissioning or any movable or immovable property.

CHAPTER-5

Registration, Security and Maintenance of Accounts

5.1 Registration of dealers [section 17]

- (i) Every dealer liable to pay tax (having turnover of ₹ 5 lakh per annum) shall obtain registration certificate issued by the prescribed registering authority in the prescribed form. For this purpose the dealer except casual dealer shall present application in form VII G in case of Government Department and in form VII in other cases, as the case may be, completed in all respect before the Registering Authority of the circle in which principal place of his business is situated within a period of thirty days from the date on which such dealer has become so liable along with proof of deposit of registration fee of one hundred rupees.

Provided that a dealer, who fails to apply for issue of registration certificate within the time prescribed, may apply after depositing late fee at the rate of rupees one hundred for every month or part thereof for the period of delay.

- (ii) Every casual dealer shall make an application in Form VII A completed in all respect before the registering authority of the circle in which place of his business is situated.
- (iii) Every dealer who has held immediately before January 1, 2008 a registration certificate or a provisional certificate issued under erstwhile Act and is liable to pay tax under this Act from January 1, 2008 shall be deemed a registered dealer with effect from January 1, 2008.

Provided that where a dealer was not required to pay any fee for renewal of the registration certificate under the provisions of the erstwhile Act.

- (iv) In the case of a dealer, who is liable for payment of tax under this Act from January 1, 2008 and whose application for issue of registration certificate under the erstwhile Act, is pending on January 1, 2008 if-
- (a) registration certificate is issued to him under the erstwhile Act; and
- (b) the dealer deposits renewal fee payable under the erstwhile Act.
- (v) Every dealer who holds a valid registration certificate issued under the erstwhile Act and is liable to tax under this Act shall submit the registering authority an application in the prescribed form and in the prescribed manner, for issue of registration certificate within a period of fifteen months from January 1, 2008.

In case of failure by the dealer the registration certificate shall cease to have effect.

- (vi) Every person who carried on business in the capacity of a railway container contractor, an air cargo operator, courier service provider or owner or person in-charge of a godown, cold storage or warehouse other than transporter who stores commercial goods before the date of the commencement of the Act and continues the business shall apply in Form XIV to the registering authority within thirty days from the date of commencement of such business or ninety days' from the date of publication of the notification of this rule whichever is later, for grant of service provider Number with the deposit of fee of rupees one hundred. In case of failure to apply within the time, may apply after depositing late fee at the rate of ₹ fifty for every month or part thereof for the period of delay.

(vii) Where the registering authority is satisfied that –

- (a) the application for issue of registration certificate is in order;
- (b) the information furnished is correct and complete; and
- (c) any requisite fee has been deposited and security where needed is furnished,

the registering authority may, after making such enquiry as it may deem fit cause the dealer to be registered and issue registration certificate in the prescribed form and prescribed time.

(viii) If the registering authority is satisfied that application is not in order or information given therein is not correct or document submitted are forged or not genuine or security demanded has not been furnished or any other sufficient ground, he shall reject the application and shall inform the dealer accordingly.

Provided that the application shall not be rejected without giving reasonable opportunity.

(ix) The registering authority, after giving reasonable opportunity of being heard to the dealer, may cancel the registration certificate with effect from the date-

- (a) on which dealers' liability for payment of tax has ceased ; or
- (b) on which the dealer has discontinued the business ; or
- (c) of order of cancellation where-

(i) the dealer has obtained registration certification by fraud or by misrepresentation of facts ; or

(ii) the dealer has failed to furnish security or additional security, as the case may be; or

(iii) the dealer has transferred any prescribed form of declaration of certificate obtained by him to any person against provisions of this Act or the rules made hereunder ; or

(iv) the dealer has permitted some other person to carry on business in his name ; or

(v) the dealer has issued any tax invoice to a dealer without making actual sale of goods ; or

(vi) where a transporter or carrier or transporting agent or railway container contractor fails to file return or otherwise acts in contravention of the provisions of this Act or rules made hereunder;

(vii) a person acts in contravention of provisions of section 43;

(viii) registration certificate has been cancelled for any other sufficient cause;

(ix) where a dealer has failed to pay the tax, penalty or other dues within three months of the date such tax, penalty of other dues become payable;

(x) During cancellation proceedings under sub-section (IX), where the registering authority is satisfied that the dealer will succeed in causing revenue loss, pending action for cancellation under sub-section (IX), it may, after assigning reasons therefore, suspend the registration certificate by passing an order in writing, for the period during which the proceedings are pending;

(xi) During the period of suspension of registration certificate under sub-section (X), the dealer shall be treated as unregistered dealer. However if the registering authority himself by an order in writing drops by the proceedings of cancellation or the order of suspension passed by the registering authority is set aside by any competent court or authority under this Act, the dealer shall be treated as registered dealer during such period;

- (xii) Certificate of registration shall be issued by the Registering Authority in Form XI.
- (xiii) Every registration certificate issued shall bear number called Taxpayer's Identification Number (TIN).
- (xiv) The commissioner may from time to time issue instructions with regard to the procedure to be followed in respect of disposal of registration application and issue of registration certificate under the Act and other matters related to registration.

5.2 Registration certificate not transferable

A registration certificate granted under these rules shall not be transferable. Where a registered dealer is succeeded in the business by another dealer by transfer, reconstitution or otherwise; the successor dealer shall obtain a fresh certificate of registration in accordance with these rules. [Rule-35]

5.3 Cancellation of registration certificate and matter incidental to it [Rule 37-A]

- (1) Where registration certificate of any person or dealer has been cancelled under any provision of the Act or these rules, the assessing authority or the registering authority, as the case may be, shall serve the copy of the order of cancellation to the dealer or person concerned, and order to deposit the such certificate in the office of assessing authority or registering authority along with any other certificate or declaration or O.C stamp which have been obtained from the department or countersigned by competent authority.
- (2) After cancellation of the registration certificate the registering authority or assessing authority, as the case may be, shall make public notice regarding cancellation within twenty four hours and shall send information to all additional Commissioners Zone and Additional Commissioner (Special Investigation Branch) of the zone and send a copy of order to the Commissioner.
- (3) On receiving the information of cancellation of registration certificate every Additional Commissioner Zone and Additional Commissioner (Special Investigation Branch) shall immediately inform all officers under the zone thereof by public notice and electronic media.
- (4) The Commissioner or an officer not below the rank of Joint Commissioner authorized by the Commissioner in this behalf shall make public notice regarding the cancellation of registration by way of circular and through electronic media fortnightly.

5.4 Security in the interest of revenue [section -19]

- (1) Where it appears necessary to the registering authority so to do –
 - (a) for the proper realisation of any tax, penalty or other sums due or payable under this Act; or
 - (b) for the proper custody or use of forms prescribed under this Act or the rules framed thereunder ; or
 - (c) as a condition for the grant or, as the case may be, the continuance in effect of registration certificate.[Rule-32(8)].

It may, by an order in writing and for reasons to be recorded therein, direct, before the grant or as the case may be, at any time while such certificate is in force, that the dealer or the person concerned shall furnish, in the prescribed manner and within such time as may be specified in the order such security or, if dealer or person concerned has already furnished such security, additional security of any nature, as may be specified, for all or the aforesaid purposes:

- (2) The assessing authority may, by order and for good and sufficient cause, forfeit the whole or any of the security furnished by a dealer or the person concerned-
- (a) for realising any amount of tax, penalty or other amount payable by the dealer or the person concerned; or
 - (b) if any dealer or person concerned is found to have misused any of the forms or to have failed to keep them in proper custody :
- Provided that no order shall be passed under this sub-section without giving the dealer or the person concerned an opportunity of being heard.
- (3) Where by reason of an order under the security furnished by any dealer or the person concerned is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be directed by the assessing authority.
- (4) Any person aggrieved by an order of the appellate authority may, within ninety days of the service of the order on him but after furnishing the security, file an appeal before the Tribunal.

5.5 Accounts and documents to be maintained by dealers [section -21]

- (1) Every taxable dealer shall keep and maintain a true and correct account showing the value of the goods sold and bought by him, and in case the accounts maintained in the ordinary course do not show the same in an intelligible form, he shall maintain true and correct account in such form, as may be prescribed in this behalf.
- (2) A manufacturer liable to pay tax under this Act shall, in addition to the accounts referred to in other sub-sections, maintain stock-books in respect of goods used or consumed in manufactures, as well as the products obtained at every stage of production:
- Provided that in the case of any class of manufacturers, the aggregate of whose turnover, in an assessment year does not exceed twenty lakh rupees, the Commissioner, or in any other case the State Government, may relax the requirements of this sub-section subject to such conditions and restrictions as may deem fit to be specified.
- (3) The accounts, documents and the stock-books required to be maintained under this section shall be preserved by the dealer for eight years.
- (4) Every registered dealer who consigns or delivers any goods or class of goods specified in the rules made thereunder of such other goods or class of goods, as the State Government may, by notification in the Gazette, specify in this behalf, of such quantity, measure or value as may be notified, to a dealer whether by reason of sale or otherwise, shall issue to the purchaser or consignee person of goods, a transport -memo in prescribed manner and in prescribed form obtained from the assessing authority having jurisdiction over the area in which principal place of business of such dealer is situated.
- (5) No dealer shall transfer to any person and no person shall receive from any person any certificate or any form of declaration prescribed under the rules made under this Act except as provided under this Act or the rules made thereunder.
- (6) Where a dealer disposes of taxable goods in more than one of the following ways:
- (i) Makes sale of goods inside the state; or
 - (ii) Consigns goods to other dealers for sale inside the state; or
 - (iii) Makes sale of goods in the course of inter state trade or commerce; or

- (iv) Makes sale of goods in the course of the export of the goods out of in the course of the import of the goods into, the territory of India ; or
 - (v) Consigns goods outside the state otherwise than as a result of sale, shall, as far as possible keep separate account of purchase, sale, receipt an dispatch of goods for each such purpose.
 - (7) A dealer who claims input tax credit under section 13 shall maintain a register in respect of tax period-wise computations of amount of input tax credit.
 - (8) A dealer who maintains or keeps books, accounts of documents in a computer, shall also maintain day-to-day print out of all such books, accounts and documents .
 - (9) Every dealer liable to pay tax shall prepare an inventory of all goods held in stock, as mentioned hereunder, along with their purchase value, on following dates :
 - (a) goods held in opening stock on the date on which the dealer becomes liable to pay tax;
 - (b) goods held in closing stock on the last date of each assessment year;
 - (c) goods held in closing stock on the date of discontinuance of business;
 - (d) in the case of a dealer who has opted for payment of composition money under section 6.
 - (i) goods held in opening stock on the date on which provisions of section 6 has become applicable and;
 - (ii) goods held in opening stock on the date on which provisions of section 6 ceases to apply;
- Provided that a manufacturer shall also prepare a list of goods used or consumed in manufacture, processing or packing of any manufactured or semi-manufactured goods held in stock on the aforesaid dates along with their purchase value.
- (10) In case of goods returned or rejected by the purchaser, a credit note shall be issued by the selling dealer to the purchasing dealer and debit note shall be issued by the purchasing dealer to the selling dealer containing such requisite particulars as may be prescribed:
 - (11) If in respect of any particular assessment year, gross turnover of purchase or sale or both, as the case may be, of any dealer exceeds rupees one crore, then such dealer shall get his accounts verified and audited by a Chartered Accountant within six months from end of that assessment year and obtain within that period a report of such audit in the prescribed form duly signed and verified by such specified authority anog with such particulars as may be prescribed. A true copy of such report shall be furnished by such dealer to the assessing authority within such period as may be prescribed.
 - (12) If any dealer liable to get his account audited under sub-section (1) fails to furnish copy of such report within the prescribed time, the assessing authority shall, after giving the dealer a reasonable opportunity of being heard, impose on him in addition to tax payable, a sum by way of penalty not exceeding ten thousand rupees, as he may determine.

Audit scrutiny

5.6 The following checks should be exercised while scrutinizing the records relating to registration of dealers –

- (i) Whether the dealer had submitted an application for registration within the prescribed time from the date of his liability as per the applicable provisions of the VAT Act ?

- (ii) Whether all dealers registered under the repealed Act, submitted the application for registration within the prescribed time?
- (iii) Whether the dealers, whose applications for registration under the repealed Act were pending for decision before the Act was repealed, submitted applications for registration under the VAT Act within the prescribed time?
- (iv) Whether the VAT dealers have properly carried forward the closing stock of goods under the existing Sales Tax Acts as opening stock under the VAT Act ?
- (v) Whether market survey was conducted on periodic basis to unearth the errant dealers? Have departmental instructions been followed regarding the frequency of surveys?
- (vi) Are prescribed registration fees and security paid by all the applicants?
- (vii) Whether the registration certificate is issued by the competent authority within the prescribed time and with correct TIN ?
- (viii) Whether the registration certificate indicates the goods being produced/dealt in with correct description?
- (ix) Whether the prescribed registers/records like VAT register, default register, late registration register, issue of RC register etc are being maintained/updated properly ?
- (x) Whether the application for cancellation was made within the prescribed time of the closure of the business and whether the cancellation order was issued in time ?
- (xi) The Act provides for cancellation of the certificate of registration by the department authority in certain circumstances, such as failure of the dealer to file three consecutive returns within the prescribed time period knowingly furnishing incorrect details in his returns etc. Whether such instances have been detected and certificates cancelled as provided under the Act?
- (xii) Whether on the failure of the dealer to surrender his certificate of registration on cancellation, the necessary penalty has been imposed and recovered by the assessing officer?
- (xiii) Whether the commissioner has published the particulars of the dealers whose certificate of registration has been cancelled as provided under the Act?
- (xiv) Whether the dealers having turnover of more than rupees one crore have submitted audited balance sheet within six months? Failure to this, they are liable to impose penalty of '10000.

Example of good Audit observation is given below. Reasons why it is classified as good is given after the example:

1. पंजीयन सीमा से अधिक की खरीद करने वाले क्रेताओं को पंजीकृत न कराया जाना।

सर्वश्री वर्ष 2007-08 (01-01-08 से 31-03-08 तक) द्वारा फर्नीचर की स्टॉक ट्रांसफर में प्राप्त करके बिक्री का व्यापार किया गया। संगत वर्ष में व्यापारी के फार्म-26 को मान्यता प्रदान की गयी जिससे बाद स्वकर निर्धारण में निर्धारित हो गया।

जांच पर देखा गया कि व्यापारी ने प्रान्त अन्दर अपंजीकृत व्यापारियों को रु. 80,54,757/- की फर्नीचर की बिक्री किया है। व्यापारी ने अनुलग्नक-बी (टैक्स इनवायस से बिक्री) दाखिल नहीं किया है। व्यापारी द्वारा फार्म-49 से भेजे गये माल के विवरण में क्रेता व्यापारियों/व्यक्तियों के नाम व जनपद का नाम अंकित है जिसमें से 4 व्यापारियों/क्रेता व्यक्तियों का टर्नओवर 5.00 लाख से अधिक का रहा है। विवरण निम्न प्रकार है :-

श्री ग्लोबल ब्राण्ड कास्ट नोएडा	डी.जी.एच. नोएडा	पूर्वांचल कन्सलटेन्ट नोएडा	प्रोजेक्ट मैनेजर नोएडा
478800	46698	832325	702630
342000	165459		
144000	22489		
410400	402098		
507600			
442800			
288000			
90000			
93600			
2797200	636744		

उपरोक्त क्रेता व्यापारियों का तीन माह की खरीद का टर्नओवर पंजीयन सीमा से अधिक का रहा है। जिसमें विभागीय अधिकारिक बेवसाइट में श्री ग्लोबल ब्राण्डकास्ट नोएडा का टिन नं. 09165702571 वर्तमान में बदला हुआ नाम आई.बी.एन. 18 ब्राण्डकास्ट लि. नोएडा चिन्हित हुआ है किन्तु अन्य क्रेता व्यापारी श्री डी.जी.एच. नोएडा, पूर्वांचल कन्सलटेन्ट नोएडा एवं प्रोजेक्ट मैनेजर, नोएडा, अपंजीकृत रूप से खरीद किये हैं जिन्हें वैट अधिनियम के अन्तर्गत अभिलेख में लाकर के पंजीकृत कराने की कार्यवाही की जानी चाहिए ताकि व्यापारी अपंजीकृत रूप से व्यापार न कर सकें और सरकार को राजस्व मिले।

मामला विभाग को इंगित किये जाने पर विभाग ने जांचोपरान्त आवश्यक कार्यवाही किये जाने का आश्वासन दिया।

Para No 1

Every dealer having turnover of ₹ 5 lakh per annum is liable to get registration in Commercial Tax Department. In para, it has been pointed out that the Department failed to register such dealers whose turnover exceeded the monetary limit of registration.

CHAPTER-6

Incidence and levy of tax

6.1 Incidence and levy of tax [section-3]

- (1) Subject to the other provisions contained in this Act, every dealer shall be liable to pay tax under this Act, for each assessment year, on his taxable turnover of sale or purchase or both, as the case may be, of taxable goods, at such rates and at such point of sale or purchase.

Provided that tax shall be levied on and charged from every dealer on such sales and purchases as are made on or after the date on which the dealer becomes liable for payment of tax in accordance with provisions of the Act.

- (2) Where a dealer carries on business for part of any assessment year he shall, subject to the other provisions contained in this Act, be liable to pay tax on the taxable turnover of sale or purchase or both, as the case may be, of taxable goods, at such rates and at such point of sale or purchase.
- (3) Dealers shall be liable to pay tax on sales or purchases or both, as the case may be where such sales or purchases of goods are made by them on or after the date 1st January 2008, date on which he receives taxable goods for the first time, date from which registration certificate is effective and date on which a dealer makes first sale of any trade or commerce, export of goods, consigns any goods outside the state, provided that a dealer who exclusively deals in purchase or sale, or both, as the case may be, of exempt goods, shall not be liable to pay tax under this Act.

Explanation:

For the purpose of Taxable quantum "aggregate of turnover of purchase from within the State and turnover of sale within the State or both, as the case may be, of all goods" shall mean the aggregate of the turnover of-

- a. purchase of all taxable goods where such purchases are made by the dealer from within the State from person other than registered dealer; and
- b. sale of all goods except goods included in clause (a) where such sales are made by the dealer within the state.

- (4) Taxable quantum referred to in sub-section (3) shall be five lakh rupees

Provided that where a dealer carries on business during part of an assessment year, taxable quantum shall be partial amount of five lakh rupees which shall be computed on pro rata basis and for this purpose part of the month shall be counted as a full month.

- (5) Every dealer who has once become liable for payment of tax shall continue to be so liable till the date on which he discontinues his business. [Rule 6, 20(2)(a)]
- (6) For the purposes of this Act, following shall be determined in the prescribed manner:
- (a) Turnover of sale of goods:
 - (i) involved in the execution of works contract in which property in goods is transferred; or
 - (ii) in cases of transfer of right to use any goods;

- (b) Taxable turnover of sale; and
- (c) Taxable turnover of purchase.
- (7) Where in respect of transfer of property in goods involved in the execution of a works contract, the contractor does not maintain proper accounts or the accounts maintained by him are not found by the assessing authority to be worthy of credence and the amount actually incurred towards charges for labour and services and profit relating to supply of labour and services are not ascertainable, for the purpose of determining turnover of sale of goods under sub-clause (i) of clause (a) of sub-section (6), such charges for labour and other services and such profits, may be determined on the basis of deduction of such percentage of the value of works contract as may be prescribed and different percentages may be prescribed for different types of works contract.

6.2 Levy of tax on turnover of sale [section -4]

- (1) The tax payable on sale of goods under this Act, shall be levied and paid on the taxable turnover of sale of-
 - (a) goods named or described in column (2) of the Schedule II, at every point of sale and at the rate of four per cent ;
 - (b) goods named or described in column (2) of the Schedule III at every point of sale and at the rate of one per cent;
 - (c) goods named or described in column (2) of the schedule IV at the point of sale mentioned in column (3) and at the rate of tax mentioned in column (4) of the Schedule against such goods;
 - (d) goods named or described in column (2) of the Schedule V at every point of sale and sale at the rate of twelve and half per cent :

6.3 Levy of tax on turnover of purchase [section -5]

Every dealer, who, in the course of business, makes purchase of any taxable:

- (i) goods other than non-vat goods from a person other than a registered dealer ; or
- (ii) non-vat goods, the earlier sale or purchase of which has not suffered levy of tax either under the provisions of the erstwhile Act or under the provisions of this Act, shall be liable to pay tax levied on the turnover of purchase of such taxable goods except non-vat goods or turnover of purchase of non-vat goods or both, as the case may be.

6.4 Tax not to be levied on certain sales and purchases [section -7]

No tax under this Act shall be levied and paid on the turnover of –

- (a) sale or purchase where such sale or purchase takes place –
 - (i) in the course of inter –state trade or commerce; or
 - (ii) outside the State; or
 - (iii) in the course of the export out of or in the course of the import into the territory of India ; [Rule-7]
- (b) sale or purchase of any goods named or described in column (2) of the Schedule I; or
- (c) such sale or purchase ; or sale or purchase of such goods by such class of dealers, as may be specified in the notification issued by the State Government in this behalf:

Provided that while issuing notification under clause (c) the State Government may impose such conditions and restrictions as may be specified.

Explanation –

For the purposes of this Act, sections 3, 4 and 5 of the Central Sales Tax Act, 1956, shall apply respectively for determining whether or not a particular sale or purchase of any goods falls under any of the sub-clauses (i), (ii) and (iii) of clause (a).

6.5 Levy of Additional Tax [section 3-A]

- (1) Notwithstanding anything to the contrary contained in any other provision of this Act but subject to the provisions of sub-section (2), every dealer liable to pay tax under this Act shall be liable to pay in addition to the tax payable under any other provision of this Act, an additional tax on the taxable turnover of sale or purchase of goods or both, at such rate not exceeding five per cent, as may be specified by the State Government by notification in the gazette. Different rates may be specified in respect of different goods or different classes of goods
- (2) No additional tax under sub-section (1) shall be levied and paid on -
- (a) the turnover of sale or purchase of both as the case may be, of goods specified in column 2 of Schedule I and Schedule III;
 - (b) the turnover of sale or purchase or both as the case may be, of goods declared to be of special importance in the inter-State trade or commerce under section 14 of the Central Sales Tax Act, 1956;
 - (c) such sale or purchase, or sale or purchase of such goods by such class of dealers, as may be specified in the notification issued by the State Government under clause (c) of section 7.
- (3) Any dealer who avails the facility of composition of tax shall also be eligible for availing the facility of composition with respect to additional tax.
- (4) The additional tax leviable under this section shall cease to be levied after a period of five years from the date of publication of the notification issued by the State Government.

6.6 Composition of tax liability [section -6]

- (1) Notwithstanding anything contained in any other provision of this Act, but subject to other provisions of this section and the directions of the State Government, the assessing authority may agree to accept a composition money either in lump sum or at an agreed rate on his turnover of sale in lieu of tax that may be payable by a dealer in respect of such goods or class of goods and for such period as may be agreed upon.

Provided that in the case of a dealer not being a dealer executing works contract, who carries on exclusive business of re-sale of goods within the state after their purchase from a registered dealer within the State and whose turnover on sale of such goods for any assessment year, does not exceed fifty lakh rupees of his turnover, for the assessment year preceding that assessment year, has not exceeded fifty lakh rupees, the State Government may notify a rate per cent on sale of such goods. Different rates may be notified for different goods;

- (2) Any dealer, who opts for payment of composition money under this section, shall not be entitled to claim credit of input tax under section 13 in respect of purchase of goods which are re-sold by him during the period in which he is liable to pay composition money under this section or in respect of purchase of goods which have

been used, consumed or utilized in manufacture or processing of goods which are sold by him during such period and where the dealer has claimed credit of input tax in respect of any such goods, the same shall stand reversed and the dealer shall pay such amount of reverse input tax credit in accordance with the provisions of the Act.

- (3) Any dealer who opts for payment of composition money under this section shall not issue any tax invoice and shall not realize any amount from the purchaser by way of tax or by giving it a different name or colour.
- (4) A dealer who makes purchase of any goods from a dealer, who has opted for payment of composition money under this section, shall not be entitled to claim credit of input tax in respect of goods purchased from such dealer.
- (5) Where the turnover of sale, in case of a dealer who has opted to pay composition money under first proviso of sub-section (1) exceeds 'fifty lakh, he shall be liable to pay tax at the rate provided under section 4 on and from the day the turnover exceeds 'rupees fifty lakh'.

Explanation-

For the purposes of sub- sections (1) and (5) where a dealer carries on business during a part of an assessment year, annual turnover shall be partial amount of fifty lakh rupees which shall be computed on pro rata basis and for this purpose part of a calendar month shall be counted as a full month.

Audit scrutiny

6.7 The following checks should be exercised while scrutinizing the assessment files of the dealers-

- (1) Whether the Tax has been levied on correct turnover of sale/purchase?
- (2) Whether all the registered dealers, having turnover of 'rupees five lakh, have been imposed tax at the appropriate rate of tax?
- (3) whether the correct rate of tax has been imposed on the sale/purchase of goods as per schedule of rate?
- (4) The cases where ITC under section-13 has been claimed by such dealer in respect of purchase of goods which are resold by him during the period in which he is liable to pay composition money.
- (5) The case, where any dealer exceeds turnover of 'rupees fifty lakh' and is opting to pay composition money.
- (6) The cases where any dealer opting to composition money and issuing tax invoice for realization of any amount from the purchaser by way of tax giving it a different name or colour.
- (7) The rate of composition money is 0.5 per cent and applicable w.e.f. 1-4-2008. The dealer, who wants to opt composition of tax liability, has to submit Form 24 (A) along with annexure A&B, quarterly turnover statement and payable composition money challan.
- (8) Specially see cases of such dealers whose turnover for the assessment year preceding that assessment year exceeds or just below of 'rupees fifty lakh' to check for concealment of purchase/sale to bring up those dealers under taxability of Section-4.

CHAPTER-7

Rate of tax

7.1 Rate of tax

The dealer is liable to pay tax at the rates applicable on the goods named or described in column (2) of rate schedule II, III, IV and V. In addition to this, additional tax at the rate of 0.5 per cent on goods classified in schedule II other than declared goods and 1 per cent on goods classified in schedule V are livable w.e.f. June 1, 2009 vide Notification No 1169 dated May 29, 2009.

On goods falling under schedule V, Additional tax at the rate of 1 per cent will continue as such but on the following goods, the rate of Additional tax will be as follows w.e.f. 19.2. 2010. vide Notification No 307 dated February 19, 2010.

- (i) Cement
- (ii) Motor vehicle of all kinds including chassis thereof but excluding tractors
- (iii) Tyres and tubes excluding tyres and tubes of cycles
- (iv) Natural gas

Details of some goods, on which the initial rate of tax are either decreased or increased, are given below:

Schedule-I

Sl. No.	Original entry in schedule -I	Description of goods	Rate of Tax (%)	Period	Notification No. & Date
1.	128	Bura	0 4	01.01.08 to 08.04.08 09.04.08 to onwards	-- 1021 dt. 09.04.08
2.	36	Honey & Beehive	4 0	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
3.	45	Juna used for cleaning	4 0	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
4.	49	Koramal	4 0	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
5.	51	Lac & Shellac including Paseva, Mulamma, Buttonlac & Kiri	4 0	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
6.	13	Lantern & Lamps using Kerosene Oil & their chimney but excluding gas lantern, Petromax & Stone & their parts, accessories & components	4 0	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
7.	13	Liquid Petroleum Gas for domestic use as defined under section -14 of the CST Act, 1956	4 0	01.01.08 to 07.06.08 08.06.08 to onwards	1810 dt. 08.06.08
8.	27	Mungaori & bari including soyabean, mungaori & soyabean bari	4 0	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
9.	05	Ornaments made of any metal or alloy other than gold or silver or any alloy thereof.	4 0	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
10.	36	Porridge	4 0	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
11.	21	Silk Fabrics	4 0	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
12.	51	Sports goods excluding apparels & sports footwear	4 0	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
13.	22	Umbrella except garden umbrella & part thereof	4 0	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
14.	48	Handmade papers	4 0	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08

Schedule-II-A

Sl. No.	Original entry in schedule -I	Description of goods	Rate of Tax (%)	Period	Notification No. & Date
1	37	Absorvent cotton wool	12.5 4	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
2	09	Areca nut powder & betel nut	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt. 29.09.08 102 dt. 16.01.09
3	22	Bitumen	4 12.5	01.01.08 to 29.09.08 30.09.08 to onwards	2758 dt. 29.09.08
4	71	Bricks	12.5 4	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
5	117	Brushes other than tooth brush	12.5 4	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
6	58	Cane Furniture	12.5 4	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
7	92	Cash Box	12.5 4	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
8	41	Chooran	12.5 4	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
9	133	Cinema Carbons	12.5 4	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08
10	33	Coffee, beans & seeds, cocopad & beans green tea leaf & chicory	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt. 29.09.08 102 dt. 15.01.09
11	87	Coated and bonded abrasives, jointing materials, fitting for doors, window & furniture including hinges butt piano, narrow tee, Parliament handle for locks, furniture handles, knobs, drawer channel, fittings catchers, blue cut taks, hobs-nails, stars, studs, Iron heels, bullock and horse shoes and nails, chains of all kinds, all kinds of metal sections including slotted angle, shelves and accessories, rods, rails, channels and curtain fittings, tower bolts, handles, aldrops, window stay, gate hook, door stopper, brackets, card clamps, clips, corners, washers, eyelets, hooks & eyes, hanger, hasps, pegs, pelmet fittings, sliding door fitting, stoppers, suspenders, springs, magic eye, trolley wheels, pulleys & holdfasts, wire buses.	12.5 4	01.01.08 to 15.01.09 16.01.09 to onwards	102 dt. 15.01.09
12	26	Dehusker	12.5 4 12.5	01.01.08 to 03.03.08 04.03.08 to 29.09.08 30.09.08 to onwards	764 dt. 04.03.08 2758 dt. 29.09.08
13	116	Dry Fruit	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt. 29.09.08 102 dt. 15.01.09
14	26	Earthmovers	4 12.5	01.01.08 to 29.09.08 30.09.08 to onwards	2758 dt. 29.09.08
15	26	Handmixer	12.5 4 12.5	01.01.08 to 08.04.08 09.04.08 to 29.09.08 30.09.08 to onwards	1021 dt. 09.04.08 2758 dt. 29.09.08
16	92	Hardwares, Millstores	4 12.5	01.01.08 to 29.09.08 30.09.08 to onwards	2758 dt. 29.09.08
17	59	Hose pipes & fittings thereof	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt. 29.09.08 102 dt. 15.01.09

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18	68	Kattha	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	
19	26	Machinery, equipment, apparatus, tools, moulds, dies and component, spare parts, accessories thereof	4 12.5	01.01.08 to 29.09.08 30.09.08 to onwards	2759 dt. 29.09.08 102 dt. 15.01.09 2758 dt. 29.09.08
20	71	Maurang	12.5 4	01.01.08 to 08.04.08 09.04.08 to onwards	
21	79	Medical equipment/devices & implant	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	1021 dt. 09.04.08
22	09	Meethi Supari	12.5 4 12.5	01.01.08 to 08.04.08 09.04.08 to 15.01.09 16.01.09 to onwards	2758 dt. 29.09.08 102 dt. 15.01.09
23	87	Nuts, bolts, screws and fasteners that is to say hinges, nails, and rivets, cotter, cotter pins, staplers, panel pins.	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	
24	94	Pipes of all varieties including G.I. Pipes, C.I. Pipes, ductile pipes PVC & fitting	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt. 29.09.08 102 dt. 15.01.09
25	103	Processed & preserved vegetable, fruit including fruit Jam, Jelly, pickle, fruit squash, paste, fruit drink & fruit juice (whether in sealed containers or otherwise)	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt. 29.09.08 102 dt. 15.01.09
26	71	Ramraj & Geru	12.5 4	01.01.08 to 08.04.08 09.04.08 to onwards	2758 dt. 29.09.08 102 dt. 15.01.09
27	106	Raw Cashew	4 12.5	01.01.08 to 29.09.08 30.09.08 to 15.01.09	1021 dt. 09.04.08
28	41	Sugar pills for medical use in homeopathy	12.5 4	01.01.08 to 29.09.08 30.09.08 to onwards	2758 dt. 29.09.08
29	41	Syringes & dressings	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt. 29.09.08
30	127	Transformers	4 12.5	01.01.08 to 29.09.08 30.09.08 to onwards	2758 dt. 29.09.08 102 dt. 15.01.09
31	136	Water colour, Pastel colour	12.5 4	01.01.08 to 08.04.08 09.04.08 to onwards	2758 dt. 29.09.08
32	128	X-Ray film	12.5 4	01.01.08 to 08.04.08 09.04.08 to onwards	1021 dt. 09.04.08 1021 dt. 09.04.08

Schedule-II-B

Sl. No.	Original entry in schedule	Description of goods	Rate of Tax (%)	Period	Notification No. & Date
1.	27	Electrical apparatus for line telephony or line telegraphy including line telephone sets with cordless handsets & telecommunication apparatus for carriage current line system or for digital line system, video phones.	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt. 29.09.08 102 dt. 15.01.09
2.	11	Electronic calculator	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt 29.09.08 102 dt. 15.01.09
3.	02	Electronic Typewriter	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt 29.09.08 102 dt. 15.01.09
4.	09	LCD Panels, LED Panels & parts	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt 29.09.08 102 dt. 15.01.09
5.	21	Liquid crystal devices, flat panes display devices & parts thereof	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt 29.09.08 102 dt. 15.01.09
6.	02	Microphones, multimedia speakers, headphones, earphones & combined microphone/speakers sets & their parts.	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt 29.09.08 102 dt. 15.01.09
7.	19	Optical Fibre cable	4 12.5	01.01.08 to 29.09.08 30.09.08 to onwards	2758 dt. 29.09.08
8.	04	Prepared unrecorded media for sound recording or similar recording or other phenomena including compact Disc (CD) & Digital Versatile Disc (DVD).	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt 29.09.08 102 dt. 15.01.09
9.	07	Radio communication receivers Radio pagers	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt 29.09.08 102 dt. 15.01.09
10.	18	Signal Generators & Parts	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt 29.09.08 102 dt. 15.01.09
11.	03	Telephone answering machines & parts thereof	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt 29.09.08 102 dt. 15.01.09
12.	06	Transmission apparatus other than apparatus for radio or TV broad casting, Transmission apparatus incorporating reception apparatus, digital still image video cameras.	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt 29.09.08 102 dt. 15.01.09
13.	25	Uninterrupted Power supply (UPS) device & parts thereof	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt 29.09.08 102 dt. 15.01.09
14.	01	Wood processing machines	4 12.5 4	01.01.08 to 29.09.08 30.09.08 to 15.01.09 16.01.09 to onwards	2758 dt 29.09.08 102 dt. 15.01.09

Schedule-II-C

Sl. No.	Original entry in schedule	Description of goods	Rate of Tax (%)	Period	Notification No. & Date
1.	271	Winding wires & strips ammeter, KWH meter, voltmeter Insulating materials, insulator, jointing materials, circuit breaker HRC fuse thermostat, electrical relays & single phasing preventor & timer.	12.5 4	01.01.08 to 15.01.09 16.01.09 to onwards	102 dt 15.01.09
2.	236	Raw Tobacco	12.5 4	01.01.08 to 29.09.08 30.09.08 to onwards	2758 dt 30.09.08

Schedule-V

All goods except goods mentioned or described in schedule I, II, III & IV of the VAT Act 2008 will be levied @ 12.5%. In addition to above, 1% additional tax on taxable turnover of sale or purchase or both on goods under schedule w.e.f. 01.06.2009 vide Notification No. 1169 dt. 29.05.2009 will also be leviable except on the goods as given below-

1. Cement-Additional Tax @ 3% will be charged w.e.f. 19.02.2010 vide Notification No. 307 dt. 19.02.10
2. Motor vehicle of all kinds including chassis thereof, but excluding tractors-Additional Tax @ 2% will be charged w.e.f. 19.02.2010 vide Notification No. 307 dt. 19.02.2010.
3. Tyres & tubes excluding tyres, tubes of cycles, cycle-reckshaw & animal driven vehicle-Additional Tax @ 2% will be charged w.e.f. 19.02.2010 vide Notification No. 307 dt. 19.02.2010.
4. Natural Gas-Additional Tax @ 5% will be charged w.e.f. 19.02.2010 vide Notification No. 307 dt. 19.02.2010.

Audit scrutiny:

7.2.1 The following checks should be exercised while scrutinizing the assessment files of the dealers-

1. Whether Tax @ 4% on turnover of sale or purchase or both on goods shown against Sl. No. 2 to 14 of schedule I for the period from 01.01.2008 to 08.04.2008 has been levied? The turnover for April 2008 may be taken on pro rata basis $\frac{(\text{Total turnover of April} \times 8)}{30}$.
2. Whether Tax @ 4% on turnover of sale or purchase of Bura for the period from 09.04.2008 to 31.03.2009 has been levied?
3. Whether Tax @ 12.5% on turnover of sale or purchase of goods for the spell of periods shown against Sl. No. 1 to 32 of schedule IIA has been levied. The turnover of days for any month may be calculated on pro rata basis.
4. Whether Tax @ 12.5% on turnover of sale or purchase of goods shown in schedule IIB for the period from 30.09.08 to 15.01.09 has been levied? The turnover for days may be calculated on pro rata basis.
5. Whether Tax @ 12.5% on turnover of sale or purchase of Raw Tobacco shown in schedule IIC for the period from 01.01.08 to 29.09.08 and on goods shown at Sl. No. 2 for the period from 01.01.08 to 15.01.09 have been levied? The turnover for days may be calculated on pro rata basis.
6. Whether Tax @ 21% on the turnover of sale or purchase or both on the goods shown at Sl. No. 1,2,3,7,9,12 in schedule IV for the period from 30.09.08 to onwards has been levied?

7. Whether Tax at higher rate (20% & 21%) in case of goods i.e. diesel, furnace oil, naphtha & natural gas has been levied on turnover of sale or purchase of such goods in case of use in process of manufacture of non-vat-goods?
8. Lower rate of Tax (4% & 5%) is leviable on turnover of sale or purchase of diesel, furnace oil, naphtha & natural gas only for use in the process of manufacture of taxable goods against certificate prescribed by Commissioner.

Form D has been prescribed by Commissioner. One Form D should be issued or Rs. 5 lakh but in case of dealers having yearly turnover of Rs. 25 crore, State Govt./Central Govt. and Corporations/Nigams of State Govt./Central Govt. the monitory limit of Rs. 5 lakh does not apply.

9. Additional Tax at the prescribed rate has been levied correctly from the date of its applicability.

Example of goods Audit observation are given below. Reasons why these are classified as good are given after the examples:

1. त्रुटिपूर्ण वर्गीकरण के फलस्वरूप कम दर से वर्गीकरण।

सर्वश्री 'क' व्यापारी ने रेजिन व केमिकल के खरीद-बिक्री का व्यापार करना घोषित किया है। वर्ष 2007-08 के प्रान्तीय वाद (1.01.08 से 31.03.08 तक) में व्यापारी द्वारा घोषित खरीद-बिक्री के आँकड़ों को स्वीकार करते हुए निम्नवत् करारोपण किया गया -

क्र.सं.	विवरण	टर्नओवर	कर की दर (प्रतिशत)	आरोपित कर रु.
1.	आयातित रेजिन की बिक्री	11611345.00	4	464454.00
2.	आयातित एडहेसिव की बिक्री	147600.00	12.5	18450.00
3.	कन्साइनमेण्ट पर बिकने आये रेजिन की बिक्री	1432086.00	4	57283.00
			योग	540187.00

लेखा-परीक्षा के दौरान व्यापारी द्वारा दाखिल मासिक रिटर्नों के साथ संलग्न किये गये अनुलीग्नक 'बी' (जिसमें कि प्रान्तीय बिक्री का सम्पूर्ण ब्यौरा प्रस्तुत किया जाता है) की संवीक्षा से यह तथ्य प्रकाश में आया कि व्यापारी द्वारा रेजिन की बिक्री अत्यन्त अल्प मात्रा में दिखाई जा रही थी व अधिकांश बिक्री एडहेसिव की ही की गई थी। बिक्रीत माल के विवरण में माल का नाम Araldite AW106 और Hardener HV 953 V अंकित किया गया था जो कि एडहेसिव हैं और उन पर करदेयता अवर्गीकृत वस्तु की भाँति 12.5 प्रतिशत की दर से है, जबकि इसे रेजिन के अन्तर्गत वर्गीकृत करते हुए 4 प्रतिशत की दर से कर आरोपित किया गया था। इस प्रकार, व्यापारी द्वारा संगत अवधि में बिक्रीत एडहेसिव रु. 13043431.00 पर अन्तर दर 8.5 प्रतिशत की दर से रु. 1108692.00 का कर और आरोपणीय था।

इसे इंगित किये जाने पर कर निर्धारण अधिकारी ने अपने उत्तर में कहा कि हार्डनर भी रेजिन का ही प्रकार है जैसा कि संलग्न लिटरेचर से भी स्पष्ट है। अतः निर्धारित करदेयता उचित है। उत्तर स्वीकार्य नहीं है क्योंकि उपलब्ध कराया गया लिटरेचर जो कि एक पृष्ठ का है, से यह किसी भी प्रकार स्पष्ट नहीं होता। सराल्डाइट ए. डब्लू. 106 व हार्डनर एच. वी. 953 यू. के निर्माता कम्पनी हण्ट्समैन की वेबसाइट पर उपलब्ध सूचना के अनुसार यह दोनों ही उत्पाद स्ट्रक्चरल एडहेसिव्स हैं।

मामले को शासन के संज्ञान में लाया जाता है।

2. कम दर से करारोपण।

सर्वश्री 'क' व्यापारी द्वारा वर्ष 2007-08 (01-01-08 से 31-03-08 तक) में ट्रांसफार्मर व ट्रांसफार्मर पाटर्स (ट्रांसफार्मर इन्सूलेटिंग मैटीरियल) का निर्माण कर बिक्री का व्यापार किया गया। संगत वर्ष में व्यापार की वार्षिक विवरणी (फार्म-26) को मान्यता प्रदान कर प्रान्त व केन्द्र में डीमंडएसेरड (स्व कर निर्धारण) को स्वीकार किया गया है।

जांच पर देखा गया कि व्यापारी ने फार्म-26 में ट्रांसफार्मर व ट्रांसफार्मर पाटर्स (ट्रांसफार्मर इन्सूलेटिंग मैटीरियल व लॉक्स) की बिक्री रु. 19,44,627/- की किया है जिस पर 4 प्रतिशत की दर से कर आरोपित किया गया है। उल्लेखनीय है कि ट्रांसफार्मर पाटर्स वैंट अधिनियम के अन्तर्गत शिड्यूल 1 से 4 में वर्गीकृत नहीं है अतएव इस पर शिड्यूल 5 के अन्तर्गत 12.5 प्रतिशत की दर से कर आरोपणीय है। इस प्रकार कुल बिक्री में से ट्रांसफार्मर पाटर्स की बिक्री रु. 18,23,977/- पर अन्तरीय दर 8.5 प्रतिशत (12.5-4) से रु. 1,55,038/- का और कर आरोपणीय है।

मामला विभाग को सूचित किये जाने पर विभाग ने जांचोपरान्त कार्यवाही किये जाने का आश्वासन दिया।

3. कम दर से कर स्वीकार किया जाना

सर्वश्री 'क' व्यापारी द्वारा वर्ष 2007-08 (1.1.08 से 31.03.08) में कनसाइनमेंट बेसिस पर Writing Instrument व Scrub Pad की बिक्री का व्यवसाय किया गया है। संगत वर्ष में प्रान्त बाहर से कनसाइनमेंट बेसिस पर प्राप्त रु. 1,67,81,018 का Writing Instrument तथा Scrub Pad की बिक्री पर क्रमशः 4 प्रतिशत व 12.5 प्रतिशत की दर से स्वीकार कर जमा किया गया है। व्यापारी द्वारा दाखिल प्रपत्र-XXVI में घोषित खरीद-बिक्री को स्वीकार करके वाद का निस्तारण डीमंड रूप से किया गया है।

पत्रावली की जांच में हमने देखा कि व्यापारी द्वारा अपने व्यापारिक विवरण को मनमुताबिक घोषित कर जमा किया गया है। आरम्भिक रहतियां आयातित माल तथा अन्तिम रहतियां में कोई मिलान नहीं है तथा आयातित माल की स्थिति के अनुसार माल पर देय कर कम जमा किया गया है। संगत वर्ष में 21 फार्म-38 से 1,71,83,201 का माल आयात करना घोषित किया गया तथा इस आयातित माल में 4,02,183 रुपये की वापसी को कम करके शुद्ध आयातित माल 1,67,81,018 का आयात किया गया। आयात घोषणा पत्र के अनुसार 26,27,958 का Writing Instrument तथा रु. 1,45,55,243 का Scrub Pad का आयात किया गया जिसकी बिक्री की गई है जिस पर क्रमशः 4 प्रतिशत व 12.5 प्रतिशत की दर से कर स्वीकार किया गया। संगत अवधि में आयातित माल की बिक्री पर निम्नवत कर स्वीकार कर जमा किया गया है :-

1. Writing Instrument की बिक्री	1,06,24,876	4%	4,24,995
2. Scrub Pad की बिक्री	42,83,676	12%	5,35,45,956
3. Scrub Pad की केन्द्रीय बिक्री	13,75,464	3%	41,263
	<u>1,62,84,016</u>		<u>10,01,718</u>

व्यापारी द्वारा 4 प्रतिशत की दर से रु. 1,06,24,876 के माल की बिक्री स्वीकार किया गया है जबकि 4 प्रतिशत का Writing Instrument माल 26,27,958 का आयात किया गया है तथा व्यापारी द्वारा घोषित आरम्भिक रहतियां Writing Instrument आनुपातिक रूप से अधिक नहीं बचा था तथा व्यापारी का आरम्भिक रहतियां व अन्तिम रहतियां में अन्तर नगण्य है। ऐसी स्थिति में व्यापारी की कुल बिक्री 1,62,84,016 के आधार पर समस्त Writing Instrument रु. 26,27,958 की बिक्री पर 4 प्रतिशत की

दर से तथा Scrub Pad की बिक्री पर 12.5 प्रतिशत की दर से कर आरोपणीय है। विवरण निम्नवत है :-

1. Writing Instrument की बिक्री	26,27,958	4%	1,05,118
2. Scrub Pad की बिक्री	1,22,80,594	12.5%	15,35,074
3. Scrub Pad की केन्द्रीय बिक्री	13,75,464	3%	41,263
	<u>1,62,84,016</u>		<u>16,81,455</u>

अतः Scrub Pad रु. 79,96,918 (1,22,80,594-42,83,676) को Writing Instrument में बिक्री दर्शाने के फलस्वरूप रु. 6,79,737 (16,81,455-10,01,718) कम कर जमा किया गया है। यह व्यापारी का स्वीकृत कर है जिस पर नियमानुसार ब्याज भी देय है।

हमारे द्वारा लेखा परीक्षा में इंगित किये जाने पर कर निर्धारण अधिकारी द्वारा बताया गया कि दाखिल विवरणी के आधार पर VAT अवधि में डीमड कर निर्धारण के अन्तर्गत है। प्रतिकूल तथ्य पाये जाने पर जाँचोपरान्त विधि अनुसार कार्यवाही की जायेगी। कृत कार्यवाही लेखा परीक्षा में प्रतिक्षित रहेगी।

Para No -1

As per Annexure 'B' "statement of sale detail" submitted with monthly returns, the maximum sale was shown for Araldite AW 106 and Hardener HV 953V which are structural adhesives. As per VAT rate schedule I to IV it is not classified, therefore, liable to tax @ 12.5 per cent under unclassified goods while the A.A . levied tax @ 4% treating it as Resin.

Para No -2

As per VAT schedule of rate, the transformer parts are not classified in schedule I to IV. Therefore, liable to tax 12.5% under schedule-V as unclassified while the A.A . levied tax @ 4%.

Pare No-3

The A.A. levied tax @ 4% on sale of writing instrument for ₹ 1,06,24,876, while the purchase from Ex -U.P. against Form-38 was only for ₹ 26,27,958. On other hand the goods scrub pad taxable @ 12.5% was purchased and sold for ₹ 1,45,55,243 but A.A.levied tax on the sale of ₹ 42,83,676 @ 12.5% in U.P. and @ 3% on the sale of ex- UP for ₹ 13,75 464 Hence, the sale of goods of 12.5% was reduced by ₹ 79,96,918 and the sale of goods of 4% rate of tax was increased by the same amount to tally the total sale. This kind of act resulted in short levy of tax at the differential rate of 8.5% (12.5%-4%).

CHAPTER-8

Submission of tax returns and assessment of tax

8.1 Submission of tax returns

[section -24]

- (1) Every taxable dealer including a dealer from whom any amount of tax has been deducted at source under section 34, shall, for such tax period and within such time, as may be prescribed, submit tax return of his self assessed turnover and tax, in such form and verified in such manner as may be prescribed, but the assessing authority may in its discretion and for reasons to be recorded, extend the date for submission of the return by any dealer or class of dealers:

Provided that every taxable dealer, including a dealer who claims input tax credit, shall also submit along with tax return a list of –

- i. purchases of goods made from registered dealer in respect of which the dealer has received tax invoices;
- ii. sales of goods made to registered dealers in respect of which the dealer has issued tax invoices; and
- iii. sale made to dealers to whom sale invoices have been issued in the name of such dealers, containing such particulars as may be prescribed.

- (2) Before submitting the tax return under sub-section (1), the dealer shall, in the manner prescribed, deposit the net amount of tax payable shown in such tax return along with amount, if any, realized in excess of amount of tax due under this Act from purchasers of goods during the tax period.
- (3) Every person or dealer to whom provisions of section 34 apply, shall, in respect of dealers from whom any amount of tax has been deducted submit such statement within such time as may be prescribed.
- (4) If any dealer discovers any omission or other error in any tax return submitted by him, he may at any time before the expiry of the time prescribed for submitting the next tax return submit revised tax return. If the revised tax return shows a greater amount of tax to be due than was shown in the original return, the dealer shall also deposit separately the difference of tax due and the interest payable as if the time for submitting the original tax return had been extended on the application of the dealer to the date of submission of the revised tax return. If the revised tax return shows lesser amount of tax to be due than was shown in the original tax return the dealer may adjust the excess amount towards the tax due for the subsequent tax periods.
- (5) If goods sold by a dealer are returned to him by the purchaser within six months of the date of sale, and assessment of the selling dealer for the year to which such sale relates is as yet to be made, the selling dealer, and where goods purchased by a dealer are returned to the seller within six months of the date of purchase, and assessment of the purchasing dealer for the year to which such purchase relates is as yet to be made, the purchasing dealer, may within thirty days of the expiry of the month in which such goods are returned, submit for that purpose only a revised return for the tax period during which such sale or purchase, as the case may be, was made.
- (6) Every taxable dealer, including a dealer who has carried on business during part of an assessment year, shall, for such assessment year or for part of such assessment year, as the case may be, submit annual tax return of turnover and tax within such time and in such form and manner, as may be prescribed:
- (7) Every person to whom provisions of section 34 apply, shall, for each assessment year, in respect of a dealer

from whom amount of tax has been deducted, submit such details, in such form and manner and within such time as may be prescribed.

- (8) Every person transporting any goods by any public service motor vehicle or by any vessel and every forwarding agent shall submit to the assessing authority of the area from which the goods are dispatched such information and documents, as may be prescribed, of all goods transported or forwarded by him. The assessing authority concerned shall have the power to call for and examine the books of account or other documents in the possession of such transporter of agent with a view to verifying the correctness of the information and documents submitted and the transporter and agent shall be bound to furnish the books of account or other document when so called for.

8.2 Tax period, due date of submission of return and documents to be submitted by the different categories of dealers are detailed below-

Sl. No.	Category of dealers	Tax Period	Due date of Submission	Form No.	Documents to be submitted	Penalty
1.	Dealer who becomes due for the first time in any assessment year	(i) Commence or the date on which the dealer has become liable for payment of tax and shall end with the last day of the calendar month in which he has become liable for tax. (ii) after expiry of first tax period, each calendar month of the assessment year in which the dealer has become liable for payment of tax.	Expiry of 20 th day commencing on the day following the day on which a tax period has expired.	XXIV	1. A list of purchase of goods made from registered dealer in respect of which the dealer has received tax invoices, from the un-registered dealers and from the dealers of out of state. 2. A list of sales of goods made to registered dealers in respect of which the dealer has issued tax invoices/ sale invoices. 3. A copy of the treasury challan in Form I.	1. 20% of net tax payable in case of failure to deposit the tax due for any tax period within prescribed or extended time. 2. ₹ 2000 in case of failure to submit the tax return for any tax period in the prescribed manner.
2.	In case of dealer having turnover of ₹ 25 lakh except dealing in sensitive commodities or is entitled for refund and whose turnover exceeds one crore.	Every quarter of the assessment year, ending with 30 th June, 30 th September, 31 st December and 31 st March	Within 20 th day after expiry of the quarter.	XXIV	--do--	--do--
3.	In case of a dealer who deals in sensitive commodities having turnover of more than one crore.	Every calendar month of the assessment years.	Expiry of period of 20 days Commencing on the day following the last day of the month	XXIV	--do--	--do--
4.	Dealer who has discontinued his business.	(i) The calendar month of any assessment year, immediately preceding the calendar month in which he has discontinued his business. (ii) The quarter of any assessment year, immediately preceding the quarter of the assessment year in which he has discontinued business.	--do--	XXIV	--do--	--do--
(5)	Dealer responsible for making tax deduction at source.	Each quarter ending with 30 th June, 30 th September, 31 st December and 31 st March of each assessment year.	Within 20 days after expiry of the quarter.	XXV Along with annexure 'A' & 'B'	(1) Information required in Form XXV (2) Copy of Payment challan in form I.	--do--

8.3 Assessment of tax for tax periods [section -25]

- (1) Where in respect of any tax period of an assessment year-
- (i) any dealer has not submitted tax return within the time prescribed or within the time extended by the assessing authority, or if tax return has been submitted without payment of tax shown payable in such return; or
 - (ii) preliminary examination of tax return, by the assessing authority, reveals that computations shown in the tax return are wrong or amount of input tax credit claimed or tax payable shown is incorrect; or
 - (iii) on the basis of material available on records with the assessing authority, it appears to the assessing authority that the turnover of sales or purchases or both, disclosed by the dealer is not worthy of credence;
- the assessing authority may, after making such inquiry as it may deem fit and after giving a reasonable opportunity of being heard to the dealer, determine –
- (i) to the best of its judgment the turnover, amount of tax payable and amount of input tax credit admissible, where the dealer has not submitted tax return or if the tax return has been submitted, the assessing authority is of the opinion that turnover disclosed by the dealer in such return is not worthy of credence; or
 - (ii) the amount of tax payable and amount of input tax credit admissible, in any other case, by passing a provisional order of assessment for such tax period.
- (2) No provisional order of assessment, under sub-section (1), for any tax period of an assessment year, shall be made after the dealer has submitted annual return of turnover and tax, and where such annual return has not been submitted by the dealer, after expiration of the time prescribed or extended by the assessing authority, for submission of annual return.
- (3) Amount of tax, assessed under sub-section (1) in excess of the amount of tax deposited by the dealer, shall be paid by the dealer in the prescribed manner and within a period of thirty days from the date of service of the order of assessment and prescribed notice of demand on him.

8.4 Assessment of tax for an assessment year [section -26]

Subject to provisions of this Act, in respect of every taxable dealer, for each assessment year, there shall be an assessment of tax payable by him and amount of input tax credit admissible to him.

Provided that where the dealer has carried on business during a part of the assessment year, such assessment shall be for such part of the assessment year:

Provided further that in case of person who being a dealer other than a registered dealer brings any taxable goods from outside the State, the assessing authority may make separate assessments for each receipt of such goods by the dealer,

the assessing authority may make separate assessments for each, such authorization for transit of goods or receipt of goods by the dealer, as the case may be.

8.5 Self assessment [section -27]

- (1) Subject to provisions of section 28, every dealer, who has submitted annual return of turnover and tax, in the prescribed form and manner, shall be deemed to have been assessed to an amount of tax admittedly payable

on the turnover of purchase or sale or both, as the case may be, disclosed in such return and to amount of input tax credit shown admissible in the return.

(2) For all purposes under this Act and rules made thereunder –

- (a) annual return of turnover and tax, referred to in sub-section (7) of section 24, submitted by a dealer, shall be deemed to be an assessment order and facts disclosed or figures mentioned in such return shall be deemed part of such assessment order; and
- (b) last date of the assessment year succeeding the assessment year in which the date prescribed for submission of such annual return falls, shall be deemed to be the date of such assessment order .

8.6 Rectification of mistakes [section -31]

- (1) Any officer, authority, the Tribunal or the High Court may on its own motion or on the application of the dealer or any other interested person rectify any mistake apparent on the face of record, in any order passed by him under this Act, within three years from the date of the order sought to be rectified:

Provided that where an application under this sub-section has been made within such period of three years, it may be disposed of even beyond such period:

Provided further that no rectification which has the effect of enhancing the assessment, penalty fees or other dues, shall be made unless reasonable opportunity of being heard has been given to the dealer or other person likely to be affected by such enhancement.

- (2) Where such rectification has the effect of enhancing the assessment, the assessing authority shall serve on the dealer a revised notice of demand in the prescribed form and therefrom all the provisions of this Act shall apply as if such notice had been served in the first instance.

8.7 Power to set aside ex parte order of assessment or penalty [section-32]

- (1) In any case in which an order of assessment or re-assessment or rejection of application for registration or order of penalty is passed ex parte, the dealer may apply to the assessing authority within thirty days of the service of the order to set aside such order and re-open the case; and if such authority is satisfied that the applicant did not receive notice or was prevented by sufficient cause from appearing on the date fixed, it may set aside the order and re-open the cases for hearing:

Provided that no such application for setting aside an ex parte assessment order shall be entertained unless it is accompanied by satisfactory proof of the payment of the amount of tax to be due under this Act, on the turnover of sales or purchase, or both, as the case may be, admitted by the dealer in the return filed by him or at any stage in any proceeding under this Act, whichever is greater.

- (2) Where an assessment order under sub-section (1) of section 25 is passed, ex parte, the dealer may apply to the assessing authority within thirty days of service of the order, to set aside such order and if such authority is satisfied that the dealer has filed the tax return and deposited the tax due according to the tax return within thirty days from the last day prescribed for filing such tax return, it may modify or set aside such order and also the demand notice, if any, issued thereunder.

8.8 Audit Scrutiny

The following checks should be exercised while scrutinizing the records relating to submission of tax returns and assessment of tax:

- (i) whether all regular registered VAT dealers/presumptive tax dealers submitted their monthly/quarterly/annual returns in time and in the prescribed proforma indicating that the payment of tax was made on or before the prescribed period;
- (ii) whether revised returns have been filed within the specified time indicating the reasons for such revision;
- (iii) whether the casual dealers have filed declarations within the specified time of arrival of goods in the state and paid the advance tax and filed final declaration on the last day of business along with the details of payment of tax;
- (iv) whether the dealers whose gross turnover exceeded the prescribed limit have furnished the audited accounts within the specified time;
- (v) whether the VAT dealer whose registration is cancelled has paid back Input Tax Credit (ITC) availed in respect of all the taxable/capital goods on hand on the book value on the day of cancellation;
- (vi) whether the VAT dealer, who is a manufacturer also, has filed a true and complete statement showing the quantity and value of goods received for use/consumption in manufacture, closing stock of such goods and quantity and value of goods manufactured;
- (vii) whether penalty at the prescribed rate on the tax and interest payable from the date it has become due to the date of order of assessment, whichever is earlier, has been levied;
- (viii) whether a VAT dealer or any other person or dealer liable to pay tax, interest and penalty, has deposited the amount on the date prescribed in the notice;
- (ix) whether returns were scrutinized by the assessing authorities to verify the correctness of calculation, application of correct rate of tax and interest and input tax credit claimed therein and full payment and interest payable by the dealer for any tax period;
- (x) whether the details of returns received were entered in the register/computer within the specified time and bank scrolls reconciled with tax amounts mentioned in the return where applicable; and
- (xi) whether notice has been issued requiring the dealer to pay the amount of tax along with interest in case the amount paid is less than the amount to be paid.
- (xii) All such cases of tax not paid, returns not filed, penalty not levied, notice not issued should be looked at as a percentage of the total number of dealers being assessed in that particular assessing office (ie CTO/AC/DC/JC etc) and commented upon.

Example of a good Audit observations is given below:

In the following paragraph it has been noticed that the A.A. failed to follow the provisions of section 25 (1)(II) of the Act according to which if during preliminary examination of tax return by the A.A. it is found that tax payable shown is incorrect, he may determine the correct amount of tax payable by passing a provisional order of assessment for such tax period. Had the A.A. been examined the tax return of April 2008 and passed provisional assessment order for correct rate of tax, the short deposit of tax up to Feb. 2009 could have been avoided and the department was able to earn further revenue of ₹ 5.75 lakh at correct rate of tax.

1. "अधिनियम के प्रावधानों का पालन न किया जाना"

सर्वश्री 'क' व्यापारी विभाग में इंक के निर्माण एवं बिक्री के लिए पंजीकृत है। संगत वर्ष 2008-09 के माह फरवरी 2009 में घोषित स्टॉक ट्रांसफर रु. 8,43,19,050.00 को अस्वीकार करते हुए उसे केन्द्रीय बिक्री मानकर धारा 25(I)(II) के अन्तर्गत कर रु. 33,72,762.00 आरोपित किया गया।

पत्रावली में संलग्न माह अप्रैल-2008 से माह फरवरी-2009 के रिटर्न एवं इन माहों के अनुलग्नक 'बी' की जाँच पर पाया गया कि व्यापारी के द्वारा इस अवधि में रु. 67,62,118.00 के लेमिनेशन एडहेसिव य लेमिनेशन एडहेसिव हार्डनर की बिक्री पर 4 प्रतिशत की दर से टैक्स चार्ज किया है एवं जमा किया है जबकि ये दोनों वस्तुएँ वैट के किसी भी अनुसूची में वर्गीकृत नहीं हैं। अतः इन पर 12.5 प्रतिशत की दर से कर आरोपणीय है। इस प्रकार अन्तर 8.5 प्रतिशत (12.5-4) की दर से उक्त रु. 67,62,118.00 के लेमिनेशन एडहेसिव एवं लेमिनेशन एडहेसिव हार्डनर की बिक्री पर रु. 5,74,780.00 कम कर जमा किया गया।

वैट अधिनियम 2008 की धारा 25(1)(दो) के अनुसार यह प्रावधान है कि व्यापारी द्वारा प्रदर्शित देय कर की धनराशि गलत होने की दशा में कर निर्धारण अधिकारी ऐसी कर अवधि के लिए कर निर्धारण का अस्थायी आदेश पारित कर सकता है। सन्दर्भित मामले में अप्रैल 2008 से फरवरी 2009 को रिटर्न एवं अनुलग्नक 'बी' व्यापारी द्वारा विभाग को उपलब्ध करा दिये जाने के बाद भी कर निर्धारण अधिकारी द्वारा न तो उनका परीक्षण किया गया एवं न ही अस्थायी कर निर्धारण आदेश पारित करने की आवश्यकता समझी गयी, जिसके फलस्वरूप रु. 5,74,780.00 कर कम जमा किया गया।

सम्प्रेक्षा के द्वारा उक्त बिन्दु को इंगित किए जाने पर विभाग ने उत्तर में कहा कि उक्त मामले में व्यापारी के 2008-09 का क.नि. आदेश पारित किया जाना है अतः सम्परीक्षा दल की यह आपत्ति कि रु. 5,74,780.00 की क्षति से विभाग को बचाया जा सकता था अभी अप्रासंगिक है। वर्ष 2008-09 का कर निर्धारण आदेश पारित कर अवगत कराया जाएगा।

विभाग द्वारा दिया गया उपरोक्त उत्तर उपरिलिखित धारा 25(1)(दो) तथा सन्दर्भित विवरण के परिपेक्ष्य में मान्य नहीं है। अतः प्रकरण संज्ञान में लाया जाता है।

CHAPTER-9

Payment and recovery of tax, penalty and interest

9.1 Payment and recovery of tax [section -33]

- (1) Any amount of tax or fee of penalty or any other amount, which a dealer or other person is liable to pay under this Act, shall be deposited by the dealer or such other person in the prescribed manner.
- (2) The tax admittedly payable, shall be deposited within the time prescribed, failing which simple interest at the rate of one and quarter *per cent* per mensem shall become due and be payable on unpaid amount with effect from the day immediately following the last date prescribed till the date of payment of such amount.
- (3) If the tax (other than the tax admittedly payable to which sub-section (2) applies) assessed, re-assessed or enhanced by any authority or Court remains unpaid after expiration of the period specified in the notice of assessment and demand, simple interest at the rate of one *per cent* per mensem on the unpaid amount calculated from the date of such expiration shall become due and be payable.
- (4) Where realization of any tax remained stayed by any order of any Court or authority and such order of stay is subsequently vacated, the interest shall be payable also for any period during which such order remained in operation.
- (5) Where a person, to whom a notice is sent, proves to the satisfaction of the assessing authority that sum demanded or any part thereof is not due to the dealer, or that he does not hold any money for or on account of the dealer, then nothing contained in this section shall be deemed to require such *person* to pay the sum demanded or any part thereof, as the case may be, to the assessing authority.
- (6) Any tax or other dues payable to the State Government under this Act, any amount of money which a person is required to pay the assessing authority or for which he is personally liable to the assessing authority shall, notwithstanding anything contained in any other law for the time being in force and subject to any special or general order of the State Government, be recoverable as arrears of Land Revenue, or in the prescribed manner by the assessing authority or any other officer authorised by the State Government in that behalf.
- (7) In respect of any sum recoverable under this Act, as arrears of land revenue, the assessing authority may forward to the Collector a certificate under his signature specifying the sum due. Such certificate shall be conclusive evidence of the existence of the liability of its amount and of the person who is liable and the Collector on receipt of the certificate shall proceed to recover from such person the amount specified therein as if it were an arrear of land revenue.
- (8) Any amount paid or deposited by, or recovered from, or refundable to a dealer, shall first be adjusted towards the principal amount of tax, fee, penalty or their dues outstanding against him and the excess if any, shall then be adjusted towards the interest, if any due from him.

9.2 Manner of payment of tax, penalty, fee, or any other amount due under the Act **[Rule -12]**

- (1) Any amount payable under the Act or the rules as tax, fee, penalty interest, composition money, sale proceeds cost of forms of declaration or certificate or any other money, shall be deposited in any of the following manners along with Treasury challan in quadruplicate:

- (a) in cash in any treasury or sub-treasury or State Bank of India or its subsidiary bank or any public sector bank, authorised to accept deposits under the Act, or
 - (b) by the draft drawn in favour of depositor on such bank; or
 - (c) by cheque either issued by the depositor to self to such bank or drawn in his favour in such bank; or
 - (d) by book transfer, in case of Government Department, if so desired; or
 - (e) by electronic payment.
- (2) On every copy of Treasury challan a registered dealer shall mention his Taxpayer's Identification Number. If the dealer or person depositing the money is not a registered dealer he shall write the word "A person other than registered dealer".
 - (3) Treasury challan shall be in Form 1
 - (4) Where any amount of security for release of seized goods is received in cash by any officer, such officer shall grant receipt in Form 385 prescribed for Government receipts to the person from whom the amount is received.
 - (5) The officer who has accepted cash amount under sub-rule (4) shall deposit such amount in the bank, treasury or sub-treasury in the manner provided in this rule on behalf of the dealer of the person on whose behalf it was received.

9.3 Procedure to be adopted by the bank and the treasury [Rule -13]

- (1) If the cash amount, cheque or draft tendered or deposited by a person is in order, the bank shall accept and acknowledge it under the signature of the officer authorized for the purpose and seal of the bank. In the acknowledgement, the amount deposited shall be mentioned in words and figures both. The bank shall also put the serial number on each copy of the challan.
- (2) The serial number shall be prefixed by alphabets to identify the name of the bank and its branch.
- (3) The two copies marked "C" and "D" of the challan shall be returned to the depositor who shall submit the copy marked "C" to his Assistant Commissioner and retain the other copy marked "D" with him.
- (4) At the end of each day every branch of the bank shall send two copies of the challan marked "A" and "B" retained by it to its link branch nominated for the purpose in that district or as the case may be, the circle, duly stitched separately in the order of the challan number along with copies of the list of such challans.
- (5) The link branch shall send one copy marked "B" of the challan along with one copy of the list of such challans by the working day next following to the Assistant Commissioner of the District or as the case may be, the circle.
- (6) The link branch of each bank shall send the copies marked 'A' of the challans along with two copies of the list of such challans to the focal point branch of the State Bank of India nominated for the purpose by following working day. The focal point branch shall send the copies of the challan marked 'A' along with one copy of the list to the treasury officer by the next working day.

9.4 Verification by treasury and reconciliation of discrepancy [Rule-14]

- (1) The assessing authority shall maintain record of Treasury challans marked as B received from link banks in form II and shall reconcile with the copy of the Treasury challan marked as C submitted by the dealer.

- (2) If the assessing authority discovers any discrepancy between the copy of the Treasury Challans obtained from link bank and submitted by the dealer, he shall take the necessary steps regarding security of revenue and also other actions as required by any other law for time being in force.
- (3) The assessing authority shall send to the officer-in-charge of the treasury or sub-treasury a statement in Form III for verification of revenue receipt in the first week of every month.
- (4) If any discrepancy is discovered at the time of verification, the assessing authority shall send necessary records to the treasury or sub-treasury for reconciliation of accounts.

9.5 Power to grant instalment [section -39]

- (1) Subject to such conditions and restrictions, including the conditions regarding furnishing security to the satisfaction of the assessing authority as may be deemed fit to be imposed-
 - (a) the State Government may permit any dealer or other person, against whom any amount of tax, penalty or other dues is outstanding, either under this Act, or under the erstwhile Act, to pay the amount in such number of monthly instalments not exceeding twenty four; and.
 - (b) the Commissioner may likewise permit any dealer or other person, against whom any amount of tax, penalty or other dues, payable either under this Act, or under the erstwhile Act aggregating not more than five lakh rupees is outstanding to pay the amount in such number of monthly instalments, not exceeding twelve.
- (2) Where such dealer or other person fails to furnish, within sixty days of the order referred to in sub-section (1), adequate security to the satisfaction of the assessing authority concerned for payment of the outstanding amount of fails to comply with the conditions or restrictions outstanding amount, or fails to comply with the conditions or restrictions imposed in such order, the amount due shall be recoverable at once.

9.6 Audit Scrutiny

- (1) Whether a notice of demand has been served on the dealer for payment of assessed tax, interest and penalty.
- (2) Whether the rate of penalty, interest or any other amount due, as prescribed in the Act, have been levied for failure to make payment of the assessed tax etc, for every month for the period for which payment has been delayed by him after the date on which such amount was due to be paid.
- (3) Whether a proceeding has been initiated to recover the unpaid amount even after the due date in pursuance to the notice of demand issued to the dealer.
- (4) Whether the cases where whole or part of the tax, penalty or interest payable by any dealer or class of dealers has been remitted or of any specified class of sales or purchase has been remitted.
- (5) Whether the dealer has paid the amount of tax (assessed, reassessed etc), penalty and interest that have become payable within 30 days of the demand notice served upon him?
- (6) Whether interest has been charged at the prescribed rate of fifteen *per cent* for the delay in payment of dues from the due date until the date of payment?
- (7) Whether the assessing officer has imposed the penalty of the sum equal to the amount of the tax in case of dealers furnishing incorrect information /availing incorrect tax credit etc in an attempt to evade/ avoid payment of tax?

CHAPTER -10

Tax deduction at source

10.1 Allotment of Tax Deduction number to a person responsible for making tax deduction at source [Rule -48]

- (1) Except a registered dealer every other person responsible for making tax deduction at source in accordance with provisions of section 34, before he makes deduction of any amount, shall apply in Form XXIX to the registering authority, having jurisdiction over the principal place of business of such person, for allotment of tax deduction number.
- (2) Where after examination of the application and after making such inquiry as he may deem fit, registering authority is satisfied that particulars furnished are correct and complete and required fee and late fee, if any has been deposited by the applicant, he shall allot tax deduction number certificate to such person in Form XXX.
- (3) Every tax deduction number certificate, granted under sub-rule (2) shall comprise such number of numeric of alpha-numeric digits as may be determined by the Commissioner.

10.2 Tax deduction at source [section -34]

- (1) Without prejudice to any other mode of recovery, payment or collection of tax under this Act, the State Government may, by notification in the Gazette direct that in specified case and in the specified circumstances but subject to such conditions as may be specified, every specified person responsible for making payment to the selling dealer for discharge of liability on account of valuable consideration payable on sale of goods in such cases as may be specified shall, at the time of making such payment to the seller, either by credit or in cash or in any other manner, towards satisfaction of tax payable by the dealer on account of sale of any taxable goods, deduct an amount determined in the manner specified.

Provided that where in case of a works contract the contractor has awarded a sub-contract and the notification provides for deduction of amount by the contractee from the payments made to contractor, the contractor responsible for making any payment or discharge of any liability to any sub-contractor, in pursuance of a contract with the sub-contractor; shall while making payment to the sub-contractor deduct amount of tax referred the above:

- (2) The amount deducted under sub-section (1) shall be deposited into the Government Treasury by the person making such deduction before the expiry of the 20th day of the month following that in which deduction is made:

Provided that where the purchaser or goods referred to in sub-section (1) is a registered dealer, he shall deposit the amount of deduction in the manner and within the time in which amount of tax for the tax period in which purchase has been made, is payable and such dealer shall be entitled to claim input tax credit in accordance with provisions of section 13 in respect of such purchase.

- (3) If any person referred to in sub-section (1) fails to make the deduction or after making deduction fails to deposit the amount so deducted as required by sub-section (2) the assessing authority may, after giving to such person an opportunity of being heard by order in writing direct that such person shall pay by way of penalty a sum not exceeding twice the amount deductible under this section but not so deducted and, if deducted not so deposited into the Government Treasury.

- (5) Without prejudice to the provisions of sub-section (3), if any such person after deducting, fails to deposit the amount so deducted, he shall be liable to pay simple interest at the rate of fifteen *per cent* per annum on the amount not so deposited from the date on which such amount was deducted to the date on which such amount is actually deposited.
- (6) Where the amount has not been deposited after deduction, such amount together with interest referred to in sub-section (5) shall be recovered as arrears of land revenue from the person who has deducted and such amount shall be a charge upon all the asses of the person concerned.
- (7) No deduction of any amount shall be made under this section if the person selling the goods is not a dealer, but the onus to prove that goods have been purchased from a person other than a dealer shall lie on the person responsible for making payment, failing which it shall be deemed that goods have been purchased from a dealer.
- (8) Where person responsible for making deduction in respect of a sale under a works contract is unable to ascertain the amount of deduction and the contractor or the sub-contractor, as the case may be, does not produce direction from its assessing authority the person responsible for making deduction shall deduct an amount which shall be four *per cent* of the gross amount of payment.
- (9) No deduction under this section shall be made on the turnover of sale where such sale takes place:-
- (i) in the course of inter-State trade of commerce; or
 - (ii) outside the State; or
 - (iii) in the course of the export out of, or import into, the territory of India.

CHAPTER-11

11.1 Input Tax Credit [section -13]

A registered dealer collects VAT from the purchasing dealer during sale of taxable goods within the state of registration. The purchasing dealer becomes eligible for credit for the tax already paid (called input tax credit-ITC) with the facility available on purchases down the chain of sales till the goods reaches the consumer. The ITC can be set-off against the total tax liability on sales during the relevant tax period.

The ITC is given for both the manufacturers as well as traders for purchase of input/supplies from within the state irrespective of when ITC will be utilised. Tax paid on inputs procured from outside the state is not eligible for credit. The unadjusted ITC can be forward for two years & thereafter, will be refunded to the dealer.

In U.P. V.A.T. Act, 2008, Input Tax has been defined in Sub- section 2(p). This sub-section embodies following provisions –

- (p) **“input tax”**, in relation to a registered dealer who has purchased any goods from within the State, means the aggregate of the amounts of tax,-
- (i) **paid** or payable by such registered dealer to the registered selling dealer of such goods in respect of purchase of such goods; and
 - (ii) **paid** directly to the State Government by the purchasing dealer himself in respect of purchase of such goods where such purchasing dealer is liable to pay tax under this Act on the turnover of purchase of such goods;

Provided that tax paid or payable in respect of transfer of right to use any goods shall not form part of input tax.

From the aforesaid definition of input tax it is quite evident that Input Tax, as envisaged in sub-section 2 (p) has two components –First one relates to the purchases within the state from the registered dealers and second component relates to the purchases from the unregistered dealers within the State. There is marked difference between these two components. Whereas in the case of purchases from the registered dealers tax on purchases may have been paid or may be payable, this option is not there in case of purchases from unregistered dealers. **Payment of tax to the Government Treasury has been made condition precedent to qualify for being Input Tax in case of purchases from the unregistered dealers.**

It should also be noted that the words “leviable” or “levied” do not find any place in sub-section 2(p) but instead of these words the words “paid” or “payable” have been used in this sub-section and this is very significant. The Tax should satisfy the condition of “paid” or “payable” as the case may be, to become “Input Tax” Significantly unless tax on purchases from unregistered dealers is not directly paid to the Government Treasury, no benefit of ITC can be claimed in respect of tax on such purchases. The Golden Rule may be envisaged as – **“First qualify the requisites of input tax and then claim the benefit of Input Tax Credit.”**

Significant change has been made in the definition of input tax by U.P.Act NO. 11 of 2009 and tax paid or payable in respect of transfer of right to use any goods has been excluded from the ambit of input tax.

Generally Input Tax Credit can be claimed against Tax Invoice only, however in the following circumstances Input Tax Credit may be allowed against the sales invoices-

1. Every dealer who becomes liable to pay tax on a date after January 1, 2008 shall, in respect of all taxable goods, except non-vat goods, capital goods and captive power plant, where such taxable goods have been purchased on or after January 1, 2008 but within a period of six months ending on the day preceding the date on which such dealer has become liable to pay tax and are held in opening stock in the same form and condition in which they were purchased, shall be allowed Input Tax Credit, if such goods have been purchased from some registered dealer after obtaining sale invoice bearing name and address of the claimant purchasing dealer.

2. Every dealer who becomes liable to pay tax on a date after January 1, 2008, shall, in respect of all taxable goods, except non-vat goods, capital goods and captive power plant, where such taxable goods have been purchased on or after January 1, 2008 but within a period of six months ending on the day preceding the date on which such dealer has become liable to pay tax and have been used in manufacture of semi-finished goods (in the process of manufacture of taxable goods except non-vat goods) or finished taxable goods, except non-vat goods and such semi-finished or finished goods as are held in opening stock on the date on which the dealer has become liable to pay tax, shall be allowed Input Tax Credit, if such goods have been purchased from some registered dealer after obtaining sale invoice bearing name and address of the claimant purchasing dealer.

It should be noted that Rule-30 embodies following provisions which are significant in the aforesaid context of permissibility of Input Tax Credit - 30 (1) Where tax invoice has been issued by the selling dealer to the registered purchasing dealer but the same has been lost, destroyed or defaced, **benefit of input tax credit shall be allowed on the basis of tax payment certificates issued by the assessing authority of selling dealer.**

(3) Where a dealer becomes liable for payment of tax on any date after the date of the commencement of the U.P.V.A.T. Act, 2008, **benefit of input tax credit, in respect of purchases, of goods, made during the period in which he remains liable for payment of tax as unregistered dealer, shall be allowed on the basis of sale invoices issued by the selling dealer in accordance with provisions of clause (b) of sub-section (3) of section -22.**

(4) In any other case of class of cases in which Commissioner may permit, the aforesaid rule makes it quite evident that if any tax invoice is lost, destroyed or defaced, benefit of Input Tax Credit shall be allowed on the basis of the tax payment certificate issued by the assessing authority of the selling dealer. This rule also makes it amply clear that any dealer who has applied for registration and gets registered under the Act shall be allowed Input Tax Credit in respect of purchases, of goods, made during the period in which he remains liable for payment of tax as unregistered dealer, **on the basis of the sale invoices issued by the selling dealer after mentioning the name, complete address of such purchasing dealer and such other particulars as may be required under Rule 44 (2).**

3. GENERAL ADMISSIBILITY OF INPUT TAX CREDIT:

Section-13 of the U.P.V.A.T. Act, 2008 deals with the provisions relating to the Input Tax Credit. It provides ITC in the following circumstances-

1. For a trader - Full or 100% ITC is permissible in respect of all taxable goods except non-vat goods if such goods are purchased on or after the date of commencement of this Act and are re-sold within the State, or in the course of inter-State trade or commerce; or in the course of the export of the goods out of the territory of India

2. For a manufacturer – Full or 100% ITC is permissible in respect of all taxable goods except non-vat goods, capital goods and captive power plant if such goods are purchased on or after the date of commencement of this Act and-
- (i) are used in the manufacture of any goods except non-vat goods and where such manufactured goods are sold in the course of the export of the goods out of the territory of India; or
 - (ii) are used in the manufacture of any taxable goods except non-vat goods and where such manufactured goods are sold either inside the State or in the course of inter –state trade or commerce.

It is to be noted that if exempted goods are manufactured from taxable taxable goods then ITC is to be allowed in respect of such taxable taxable goods only if such manufactured exempted goods are sold in the course of export out of the territory of India. Thus no ITC will be available in the circumstances when such manufactured exempted goods are sold within the State, or in the course of inter-State trade or commerce or are consigned for sale to outside the State.

It is pertinent to note that section-13 envisages input tax credit only in the case of taxable goods being resold or are used in the manufacturing of taxable goods and such manufactured taxable goods are further sold within the State, or in the course of inter-State trade or commerce; or in the course of the export of the goods out of the territory of India and if the manufactured goods are exempt under the U.P.VAT Act, then only if such goods are sold in the course of the export of the goods out of the territory of India. The words “re-sold” and “used in the manufacture” are of immense importance. As a matter of fact to get any input tax credit the precondition is-

- (1) – Either the taxable goods in question are re-sold, or
- (2) – The taxable goods are used in the manufacture.

Thus where the goods, purchased are not resold then no claim for the input tax credit is admissible. For example if any dealer purchases D.E.P.B. license and instead of re-selling it, such dealer executes the purchases of goods against such D.E.P.B. license and uses such purchased goods for manufacture of its products, then in this case no re-sale of D.E.P.B. license is executed by such dealer, and as such, this dealer cannot be allowed any input tax credit in respect of purchase of D.E.P.B license.

It is also to be noted that “re-sale” has been defined under sub-section 2 (ab) which embodies following provisions-

2(ab)- “ re-sale” means a sale by any person, of any goods in the same form and condition in which such goods were purchased by such person.”

Thus where goods are not sold in the same form and condition they will not be covered under the ambit of “re-sale”.

3. Partial ITC is available in the circumstances where taxable goods except non-vat goods, capital goods and captive power plant, are purchased on or after the date of commencement of this Act and are
- (i) Transferred or consigned outside the State otherwise than as a result of a sale; or
 - (ii) Used in manufacture of any taxable goods except non-vat goods and such manufactured goods are transferred or consigned **outside the State** otherwise than as a result of a sale.

This partial ITC is to be in excess of rate prescribed under sub-section (1) of section -8 of the Central Sales Tax Act, 1956 of the purchase price on which the dealer has paid tax either to the registered selling dealer or to the State Government. **However from 1-3-2009 significant change has been made in Sub-section**

13(1) in clause (a) and after this amendment, in cases of stock transfers and consignment sales executed outside the State, the input tax credit shall be equal to partial amount of tax in excess to 4% of the purchase price on which the dealer has paid tax either to registered dealer or to the Government.

11.2 INPUT TAX CREDIT IN RESPECT OF CAPITAL GOODS:

No Input Tax Credit is permissible in respect of the capital goods held in the opening stock on the date of commencement of this Act. However section 13 (1) (b) envisages ITC in respect of the capital goods purchased on or after the date of commencement of the U.P.V.A.T. Act, 2008, if such capital goods are used in the manufacture of taxable goods except non-vat goods and where such manufactured goods are sold within the State, in the course of inter-state trade or commerce of in the course of the export of the goods out of the territory of India; or transferred or consigned outside the State otherwise than as a result of a sale.

It is to be noted that if the capital goods, purchased on or after the date of commencement of the U.P.V.A.T. Act, 2008, are used in the manufacture of exempt goods except non-vat goods, then ITC is permissible in respect of such capital goods only if the manufactured exempt goods are sold in the course of export out of the territory of India.

Explanation to Section 13(11) clarifies that goods for use in manufacture of any goods includes goods required for use, consumption or utilization in manufacture of processing of such goods or goods required for use in packing of such manufactured or processed goods. Thus for a manufacturer besides raw materials and consumables etc. Input Tax Credit is to be available even for the packing materials. Further it has been made clear that manufacture of any goods includes processing of such goods and packing of such manufactured or processed goods.

Explanation to Section 13(11) further clarifies that where during the process of manufacture of any taxable goods any exempt goods are produced as by-product or waste-product; it shall be deemed that purchased goods have been used in the manufacture of taxable goods. Conversely, where during the process of manufacture of any exempt goods any taxable goods are produced as by-product or waste-product; it shall be deemed that purchased goods have been used in the manufacture of exempt goods.

Now by U.P. Act 11 of 2009 following clause has been inserted in Sub-section 13 (11)

“Where during the process of manufacture of any vat goods any non-vat goods are produced as by-product or waste-product, it shall be deemed that purchased goods have been used in the manufacture of vat goods. Similarly, where during the process of manufacture of non-vat goods any vat goods are produced as by-product or waste-product, it shall be deemed that purchased goods have been used in the manufacture of non vat goods.”

It is to be further noted that ITC in respect of the capital goods can be claimed as per Rule 24(a) which embodies that Input Tax Credit in respect of capital goods required for use in manufacture shall be claimed, in three successive annual instalments of equal amount and shall be claimed in the tax return of the first tax period of the assessment year. The first such instalment shall be claimed in the tax return of first tax period of the assessment year succeeding the assessment year in which capital goods liable to input tax credit, has been purchased and subsequent instalment shall be claimed in first tax period of subsequent assessment year;

where manufactured goods are exempt under the U.P.V.A.T. Act, 2008 and such manufactured goods as disposed of in different modes, only partial amount of such annual instalments shall be claimed and be allowed to the extent it is related to or proportionate to sale in the course of export out of the territory of India.

It is to be noted that following goods are not included in the category of capital goods for the purpose of the U.P.V.A.T. Act, 2008-

- (i) air-conditioning units or air conditioners, refrigerators, air coolers, fans, and air circulators if not connected with manufacturing process;
- (ii) an automobile including commercial vehicles, and two or three wheelers, and parts, components and accessories for repair and maintenance thereof;
- (iii) goods purchased and accounted for in business but utilized for the purpose of providing facility to the employees.
- (iv) Vehicle used for transporting goods or passengers or both ;
- (v) Capital goods used in the execution of a works contract; and

It should also be born in mind that no ITC is available for capital goods held in the opening stock on the date of commencement of the U.P.V.A.T. Act, 2008, and Rule 21 (1) (v) embodies following provisions :

No credit of any amount of input tax shall be allowed in respect of goods which are parts, components, accessories or consumables which are used for maintenance repair or running of any goods for which facility of input tax credit is not admissible;

Thus if parts, component or accessories are purchased even after the commencement of U.P.V.A.T. Act, 2008, but they relate to the capital goods held in opening stock on 1-1-2008 then no ITC will be permissible in respect of such goods .

11.3 Input Tax Credit To New Dealers:

Dealers becoming liable to tax under the U.P.V.A.T. Act, 2008, after its commencement will be allowed ITC in respect of the taxable goods except non-vat goods, capital goods and captive power plant, held in opening stock on the date of becoming liable to pay tax under the aforesaid Act, provide such goods are held in same form and condition in which they were purchased or where such goods have been used in the manufacture of semi-finished goods (in the process of manufacture of taxable goods except non-vat goods) finished taxable goods, except non-vat goods, such semi-finished goods are held in opening stock on the aforesaid date. The only condition to get ITC in respect of such goods is that they have been purchased from a registered dealer after obtaining sale invoice bearing name and a address of purchasing dealer and such purchases have been made within a period of six months ending on the day preceding the date on which such dealer has become liable to pay tax.

It should be noted that such new dealer will have to file the inventory of such opening stock along with the application of registration as per the provisions of Rule 20 (1) (b).

Now it is quite evident that such dealer will be allowed ITC on the basis of sale invoices till he is registered under the U.P.V.A.T. Act, 2008, he will be able to get ITC only on the basis of the tax invoices.

But it is very important to note that such new dealer, till he gets registered under the U.P.V.A.T. Act, 2008, will not be able to issue any tax invoice and the purchases made by other dealers from such new dealer will not be permitted any ITC and mere filling of registration application will now permit such dealer to issue tax invoices.

11.4 Input Tax Credit To Commission Agents:

It is also to be noted that no facility of ITC is available to the agent in respect of the goods belonging to the Principal despite the fact that it is the agent who has executed the sale of such goods. Similarly no ITC shall

be available to the purchasing agents execution purchases on behalf of the Principal. The ITC shall be claimed only by the Principal because it is the Principal to whom goods actually belong. The ITC shall be Following provisions are embodied in Sub-section -13(9) of the U.P.V.A.T. Act, 2008.

"Where any goods, purchased from within the State, are sold by a principal through a selling agent or where any goods are purchased by a purchasing agent on behalf of a principal, input tax credit, in respect of purchase of such goods, shall be claimed by and be allowed to the principal in such manner as may be prescribed."

11.5 Input Tax Credit To Dealers Opting Compounding:

The dealer who opts for compounding scheme shall not be entitled to any ITC on the opening stock on the date of start of compounding or on purchases made during the period for which he has opted compounding scheme. The stock on the date of completion of compounding scheme shall be entitled for ITC. During the compounding period, the purchases made by any dealer from compounding opting dealer shall also not qualify for ITC. The dealer who has availed the facility of compounding under the Trade Tax Act, shall not get any ITC on stock on the opening day of the commencement of the U.P.V.A.T. Act, 2008. The dealer opting for compounding scheme shall not be entitled for any ITC on purchase of capital goods.

11.6 Input Tax Credit in Case of transfer of right to use of goods :

Significant change has been made in the definition of input tax by U.P. Act, no .11 of 2009 and tax paid or payable in respect of transfer of right to use any goods has been excluded from the ambit of input tax.

Also by the aforesaid ACT OF 2009 Sub-section 13(7) has been amended and after sub-clause (ii) following sub-clause (iii) has been inserted-

"(iii) such goods are for transfer of right to such goods."

By such insertion it has been made clear that no facility of input tax credit shall be available to dealers in respect of purchases of goods where such goods are for transfer of right to use such goods. Thus goods meant for transfer of right to use such goods have been kept out of the ambit of Input Tax Credit.

11.7 Circumstances in which Input Tax Credit not to be allowed:

No credit of any amount of input tax shall be allowed in respect of goods which-

- (a) are brought or received by any dealer from any place outside the State whether such place is situated within the territory of India or outside such territory;
- (b) have been purchased without payment of tax either under the Uttar Pradesh Trade Tax Act, 1948 or under the U.P.V.A.T. Act, 2008.
- (c) have been purchased, on any date beyond a period of six months ending on the day preceding the date of the commencement of the U.P.V.A.T. Act, 2008, by a dealer who is liable for payment of tax with effect from the date of the commencement of the U.P.V.A.T. Act, 2008;
- (d) have been purchased, by a dealer who has become liable for payment of tax on any date after the date of the commencement of the U.P.V.A.T. Act, 2008, on any date before the date on which dealer has become liable for payment of tax, but on or after the date of commencement of the U.P.V.A.T. Act, 2008 and beyond period of six months ending on the date preceding the date on which such dealer has become liable to pay tax

- (e) have been purchases from within the State, within a period of six months ending on the day preceding the date of such commencement, by a dealer who is liable for payment of tax with effect from the date of the commencement of the U.P.V.A.T. Act, 2008 but the dealer does not possess purchase invoice issued by the selling registered dealer;
- (f) have been purchased from within the State, on any date before the date on which dealer has become liable for payment of tax, by a dealer who has become liable for payment of tax on any date after the date of the commencement of the U.P.V.A.T. Act, 2008, but within a period of six months ending on the date preceding the date on which such dealer has become liable to pay tax but dealer does not possess sale invoice, bearing his name and complete address, issued by the registered selling dealer;
- (g) have been purchased by a dealer, within a period of six months ending on the day preceding the date of the commencement of the U.P.V.A.T. Act, 2008, who is liable for payment of tax with effect from the date of such commencement, from within the State in the circumstances in which such dealer has been liable to pay tax on purchase of such goods, but the dealer, fails to prove that tax has been paid on purchase of such goods under the Uttar Pradesh Trade Tax Act, 1948;
- (h) have been purchased within a period of six months ending on the day preceding the date of the commencement of the U.P.V.A.T. Act, 2008 by a dealer who is liable for payment of tax on and from the date of such commencement and where such goods have not suffered levy tax under the provisions of the Uttar Pradesh Trade Tax Act, 1948; or
- (i) have been purchased after issue of Taxpayer's Identification Number but without obtaining tax invoice;
- (j) have been purchased after obtaining tax invoice but copy of tax invoice, marked as Original is not available and such purchase is not verifiable from the list filed by the selling dealer along with tax return; or
- (k) have been purchased by a dealer in the period commencing on the date on which such dealer has become liable to pay tax and ending on the date preceding the date on which Taxpayer Identification Number issued to him but the dealer does not possess a sale invoice, issued by selling dealer, bearing name and complete address of such dealer; or
- (l) are taxable goods, other than non-vat goods, but sale of such goods is not liable to tax in the hands of the purchasing dealer; or
- (m) are purchased after cancellation of registration certificate of the dealer; or
- (n) are capital goods within the meaning of clause (e) of section 2 of the U.P.V.A.T. Act, 2008, and such capital goods-
 - (i) have been purchased by a dealer on any date before the date on which he has become liable for payment of tax ;
 - (ii) have been purchased by a dealer for use or consumption in the manufacture of any exempt goods where such exempt goods are not sold in the course of the export of the goods out of the territory of India; or
- (o) are capital goods but such goods, for the purpose of section -14, do not fall under the category of capital goods as defined in clause (f) of section 2; or
- (p) are captive power plant or parts, components or accessories of a captive power plant; or
- (q) are taxable goods mentioned or described in column (2) of Schedule – IV;
- (r) are capital goods or heavy earth movers used by a dealer in the executing of works contract;

- (s) are motor vehicles or any other vehicle, used for carriage of passengers or goods or both; or
- (t) are air coolers, air conditioners, electric fans, heaters, air circulators, water purifiers used in factory or workshop where the same are not connected with manufacture or processing, packing of goods for sale by the dealer;
- (u) are goods used in civil construction work related to office premises or furniture, fittings, office equipments, air coolers, air conditioners, electric fans, heaters, air circulator, water coolers, and water purifiers not connected with manufacturing process;
- (v) are parts, components, accessories or consumables which are used for maintenance, repair or running of any goods for which facility of input tax credit is not admissible; or
- (w) are held by a dealer in opening stock, in the same form and condition in which those were purchased, on the date on which period of composition under section 6 commences; or
- (x) are goods which have been used or consumed in manufacture or processing of finished goods or semi-finished goods or in packing of such finished or semi-finished goods held by the dealer in opening stock on the date on which period of composition under section -6 commences; or
- (y) are held by a dealer in closing stock at the time of discontinuance of business in the same form and condition in which those were purchases; or
- (z) are goods which have been used or consumed in manufacture or processing of finished or semi-finished goods or in packing of such finished or semi-finished goods held by the dealer in closing stock at the time of discontinuance of business; or
- (aa) are used or consumed in packing of any goods where such goods belong to any other person; or
- (ab) are used or consumed in manufacture or processing of goods or in packing of such manufactured or processed goods where such goods are manufactured or processed or packed for any other person; or
- (ac) are used or consumed in the manufacture or processing of any taxable goods other than non-vat goods or in packing of such manufactured processed goods or any other goods where sale of the manufactured or processed goods or such other goods is not liable to taxing the hands of the purchasing dealer; or
- (ad) have been re-sold during the period of compositing under section-6; or
- (ae) have been used or consumed in manufacture or processing of goods and such manufactured or processed goods have been sold in the period of composition under section-6; or
- (af) are gifted or otherwise distributed free of cost or loss, destroyed or stolen; or
- (ag) are used or consumed in manufacture or processing of any goods or packing such manufactured or processed goods and such manufactured or processed goods are gifted or otherwise distributed free of cost or loss destroyed or stolen; or
- (ah) are returned to selling dealer within a period of six months from the date of purchase; or
- (ai) are used in packing of any exempt goods and such exempt goods are not sold in the course of export of the goods out of the territory of India; or
- (aj) are used in manufacture or processing of any exempt goods or in packing of such manufactured or processed goods and such manufactured, processed or packed goods are disposed of in any manner other than by way of sale in the course of the export of the goods out of territory of India; or

- (ak) are used or consumed in manufacture or processing of any non-vat goods or in packing of any non-vat goods; or
- (al) are any other goods in respect of which or any other circumstances in which any provision of the U.P.V.A.T Act, 2008 does not permit of input tax credit.
- (2) In respect of goods which are-
 - (a) consigned outside the State otherwise than as a result of a sale in the same form and condition in which those were purchased; or
 - (b) used or consumed in manufacture or processing of any taxable goods or in packing of such goods and such manufactured or processed goods are consigned outside the State otherwise than as a result of a sale.

Credit of part amount of input tax obtained by using expression $\{(PXR)/100\}$, shall not be allowed:

Where –

- (i) P is the purchase price of the goods consigned or used or consumed, as the case may be;
 - (ii) R is rate of tax applicable to the commodity under the Act if it is less than 4 and in other cases is equal to 4.
- (3) No input tax credit shall be allowed on the basis of a tax invoice or sale invoice which has been obtained without making actual purchase of goods.
 - (4) No credit of amount, of input tax in respect of which purchasing dealer has received credit note from the selling dealer, shall be allowed as input tax credit .
 - (5) No credit of amount of input tax in respect of stock shall be allowed if the dealer fails to submit the inventories within prescribed time and in prescribed Form.
 - (6) No credit of amount of input tax in respect of Development Tax paid or payable under section-3H of the Uttar Pradesh Trade Tax Act, 1948, shall be allowed in any case or in any circumstances what so ever.
 - (7) No credit of amount of input tax in respect of goods purchased before commencement of U.P.V.A.T. Act, 2008 shall be allowed if such goods are exempt under the U.P.V.A.T. Act, 2008.
 - (8) No credit of amount of input tax in respect of goods purchased before the commencement of the Ordinance, held in the opening stock on the date of such commencement, shall be allowed in case of the dealers who had availed the facility of compound scheme issued by the State Government in exercise of the power under section -7 D of the Uttar Pradesh Trade Tax Act, 1948.
 - (9) No credit of amount of input tax in respect of goods purchased before the commencement of the U.P.V.A.T. Act, 2008, held in the opening stock on the date of such commencement, shall be allowed in case of the dealers who had availed the facility of exemption on the purchase or on the sale under clause (c) of section 4 of the Uttar Pradesh Trade Tax Act, 1948.

11.8 Reverse input tax credit [section -14]

- (1) Consistent with the provisions of this Act, the State Government may prescribe the circumstances in which and the goods in respect of which input tax credit shall be neither claimed nor allowed.
- (2) Where, in respect of any goods, a dealer has already claimed input tax credit against the provisions of this Act or the rules framed thereunder or has wrongly claimed input tax credit in respect of any goods, benefit of

input tax credit to the extent it is not admissible, shall stand reversed and such amount of reverse input tax credit shall be deducted from the amount of input tax credit already claimed by the dealer in the tax period in which event giving rise to reverse input tax credit has occurred :

provided that where event, giving rise to reverse input tax credit, comes to the notice of the dealer after the tax return, for the tax period in which such event had occurred, has been submitted, the dealer shall be liable to pay such amount of reverse input tax credit within thirty days after the event comes to the notice of the dealer as on with simple interest at a rate of fifteen *per cent* per annum for the period commencing on the date following the last date prescreened for submitting tax return of the tax period in which event has occurred and ending on the date on which amount has been deposited .

11.9 Reduction on account of reversal of input tax credit [Rule -25]

Where a dealer, who has claimed input tax credit of full amount of input tax in respect of any goods, uses, consumes, disposes of or dispossesses, -

- (a) Such goods; or
- (b) any goods manufactured processed or packed by using such goods, in a manner in which he is either not entitled to claim any amount of input tax credit or is entitled to claim input tax credit of an amount which is lesser than the amount of input tax?

Shall compute amount of reverse input tax credit in respect of such goods or such manufactured, processed or packed goods on the day on which such goods or such manufactured, processes or packed goods are disposed or dispossessed and such amount of reverse input credit shall be debited in the input tax credit account on the same day.

11.10 Computation of admissible amount of input tax credit for an assessment year [Rule -27]

- (1) Admissible amount of input tax credit for any assessment year shall be computed using the expression:

Where – $A+B+C$

- (a) "A" represents aggregate of amounts of input tax for such assessment year net of aggregate of amounts of reverse input tax credit for the assessment year;
 - (b) "B" represents the amount of input tax credit carried forward from the tax return of the last tax period of the assessment year preceding such assessment year; and
 - (c) "C" represents the aggregate of amounts of instalments, if any, of input tax in respect of capital goods purchased on or after the date from which dealer has become liable for payment of tax and in respect of goods held in opening stock on the date on which dealer has become liable for payment of tax.
- (2) Where, for any assessment year, expression in sub-rule (1) results in a negative figure the dealer shall, without prejudice to his liability for payment of interest on such amount, deposit such amount of negative figure before submitting tax return for the last tax period of such assessment year.

11.11 Audit Scrutiny

The following checks should be exercised while scrutinizing the records relating to input tax credit.

- 1. whether ITC has been allowed

- 1.1 in respect of any taxable goods given by way of free sample or gift;
- 1.2 to such dealers, who have been granted "Presumptive Tax" or "Composition of tax".
- 1.3 in respect of such capital goods, which are used for manufacturing or processing of tax free goods;
- 1.4 in respect of such goods, brought / purchased from other States, against the CST paid in other State. Thereby, any CST paid to a registered dealer of other State, shall not be qualified of ITC.
- 1.5 in respect of stock of goods, remaining unsold at the time of closure of business,
- 1.6 in respect of goods, which are not sold on account of any theft;
- 1.7 in respect to such goods, for which no Tax Invoice has been issued or available;
- 1.8 in respect of goods purchased from a dealer, whose registration certificate has been suspended;
- 1.9 in respect to the sales of goods exempted from tax, as specified in the schedule appended to the Act.
- 1.10 in respect of such Capital Goods used for manufacturing or processing of goods for sale or directly for use in mining, where the finished products are dispatched, other than by way of sales;
- 1.11 in respect to such goods, which are mentioned in the Schedule of the Act for first point levy of tax.
2. Whether ITC has been allowed to be carried over without the excess credit being 'set-off' against any outstanding tax, penalty or interest payable.
3. Whether ITC has been correctly adjusted against CST dues before carrying forward.
4. Whether all dealers who have been deemed to be registered under the provisions of the Act, have submitted a statement of taxable goods held in stock as on the appointed date 31 December 2007 for which the dealer intends to claim tax credit?
5. Whether the input tax benefit to dealers in respect of the stock lying with them as on the appointed day in the respective Acts has been correctly availed?
6. Whether tax credit has been allowed correctly in respect of inputs if the goods are sold in another State?
7. Whether ITC has been reduced proportionately where inputs are used partly to make taxable goods and partly for exempted goods?

11.12 Gist of some interesting paragraphs, contributed by our Audit teams during the course of audit are given below:

1. Two dealers claimed I.T.C. @12.5% on purchase of logo, main lead, and chassis of T.V., Pannel & other T.V. parts Battery Cover, CTV Brackets, levels, holders while the correct rate of tax on these goods is @4%. This has resulted in excess adjustment of ITC of ₹ 10.58 lakh.
2. Three dealers claimed ITC@ 12.5% on purchase of locks and their parts, Gas, Propan gas, Grey Board while the correct rate of tax on these goods is 4%. This has resulted in excess adjustment of I.T.C.
3. A dealer claimed I.T.C. of ₹ 1.12 lakh. Scrutiny of annexure 'A' (Purchase details) revealed that three different TIN nos. has been shown for a single dealer. Out of which only one number was found correct as per Commercial Tax website. Hence the claim of ITC against remaining two TIN numbers was not in order which has to be reversed by the dealer.
4. A dealer claimed I.T.C against payment of tax on his purchases shown in annexure 'A'. On verification of

TIN number of selling dealers from website of Commercial Tax department it was found that the TIN numbers were not pertained to them. Hence, the purchases were shown fraudulently to earn I.T.C.

5. A dealer claimed ITC on the total purchases made during tax period without making deduction for the amount of credit note received by him. This resulted in claiming of I.T.C. fraudulently.

11.13 Example of some good audit observations are given below. Reasons why they are classified as good are given after the examples:

1. "आई.टी.सी. क्लेम के रूप में अधिक भुगतान"

सर्वश्री 'क' व्यापारी वर्ष 2007-08 में की-लाक्स, लॉक बार एवं की कटिंग मशीन के निर्माण एवं बिक्री के कारोबार हेतु विभाग में पंजीकृत रहे।

संगत वर्ष के लिए व्यापारी द्वारा दि. 1.1.08 से 31.3.08 तक की अवधि के लिये प्रस्तुत किये गये आंकड़ों को स्वीकार करके दि. 11.3.2011 को पारित किये गये कर निर्धारण आदेश की लेखा परीक्षा में यह तथ्य प्रकाश में आया कि व्यापारी द्वारा जनवरी-08 से मार्च-08 के मध्य की-लॉक्स एवं लॉक्स पार्ट्स की खरीद रु. 1,34,44,193.00 पर 4 प्रतिशत व 12.5 प्रतिशत की दरों से कुल रु. 13,35,849.00 आई.टी.सी. का क्लेम किया गया जिसे स्वीकार करके विभाग द्वारा लाभ अनुमन्य कर दिया गया। यहाँ उल्लेखनीय है कि विज्ञप्ति सं. KANI-2-3121/XI- दि. 24.12.07 प्रभावी दिनांक 1.1.08 के अनुसार "Locks of all kinds, their keys and parts thereof" के अनुसार ताले, चाबी एवं इनके पार्ट्स पर 4 प्रतिशत की करदेयता निर्धारित की गई है। जबकि व्यापारी द्वारा 12.5 प्रतिशत से आई.टी.सी. का लाभ लिया गया।

चूँकि व्यापारी द्वारा रु. 13444193.00 पर कुल आई.टी.सी. रु. 1335849.00 ली गई थी जबकि 4 प्रतिशत की दर से कुल रु. 537768.00 आई.टी.सी. का ही क्लेम बनता था। अतः व्यापारी द्वारा रु. 798081.00 धनराशि का अधिक आई.टी.सी. का लाभ लिया गया जो कि अनुमन्य किया जाना विधिक नहीं था।

सम्प्रेक्षा द्वारा इंगित किये जाने पर विभाग ने अपने उत्तर में कहा कि वैट एक्ट की धारा-2(9) के अनुसार व्यवस्था है कि "किसी ऐसे रजिस्ट्रीकृत व्यापारी जिसने राज्य के भीतर से कोई माल क्रय किया हो, के सम्बन्ध में इनपुट टैक्स" का तात्पर्य ऐसी सम्पूर्ण धनराशि से है जो -

(एक)-ऐसे रजिस्ट्रीकृत व्यापारी द्वारा, ऐसे माल के क्रय के सम्बन्ध में ऐसे माल के रजिस्ट्रीकृत विक्रेता व्यवहारी को संदेय या संदृत हो और -

(दो)-जहाँ ऐसा क्रयकर्ता व्यवहारी ऐसे माल के क्रय के आवर्त पर इस अधिनियम के अधीन कर संदाय करने का दायी हो वहाँ ऐसे माल के क्रय के सम्बन्ध में स्वयं क्रयकर्ता व्यवहारी द्वारा राज्य सरकार को सीधे संदत्त है।

प्रतिबन्ध यह है कि किसी वस्तु के प्रयोग के अधिकार अन्तरण के मामले में संदत्त या संदेय कर इनपुट कर का भाग नहीं है।

वैट अधिनियम की धारा-13 के प्रावधानों के अंतर्गत नियमानुसार आई.टी.सी. का लाभ लिया गया है। इस प्रकार लगाई गई आपत्ति निराधार एवं विधि के अनुकूल नहीं है। धारा-13 के प्रावधानों की छायाप्रति संलग्न है।

विभाग द्वारा दिया गया उपरोक्त उत्तर सम्प्रेक्षा में मान्य नहीं है क्योंकि वैट अधिनियम में निर्धारित की गई अनुसूची-I, II, III, IV व V में वर्गीकृत की गई वस्तुओं पर निर्धारित दर से कर, आरोपित किये जाने का प्रावधान है। सन्दर्भित प्रकरण में ताले,

चाबी व उनके पार्ट्स पर 4 प्रतिशत की करदेयता अनुसूची-II के 'भाग-क' के क्रमांक-77 के अनुसार निर्धारित की जा चुकी है जबकि व्यापारी द्वारा 12.5 प्रतिशत से आई.टी.सी. का दावा किया गया है जो कि विधिनुकूल नहीं है। प्रकरण संज्ञान में लाया जाता है।

2. "आई.टी.सी. क्लेम के रूप में अधिक भुगतान"

सर्वश्री 'क' व्यापारी विभाग में टी.वी. चेसिस, कलर टी.वी. के निर्माण एवं बिक्री के अतिरिक्त इलेक्ट्रानिक्स कम्पोनेन्ट की ट्रेडिंग हेतु लिमिटेड कम्पनी के रूप में पंजीकृत है। संगत वर्ष 2007-08 (1.1.08 से 31.3.08) के केन्द्रीय एवं प्रांतीयवाद में व्यापारी का कर निर्धारण उसके खातों को स्वीकार करके किया गया। प्रांतीय कर निर्धारण निम्नवत् किया गया :-

(1)	स्वनिर्मित टी.वी. की बिक्री	11,49,35,308.69	12.5 प्रतिशत	1,43,66,914.00
(2)	स्वनिर्मित चेसिस की बिक्री	27,76,799.68	4 प्रतिशत	1,11,072.00

उक्त देय कर में से रु. 51,73,434.00 संगत वर्ष में क्लेम की गई आई.टी.सी. के विरुद्ध समायोजित किया गया तथा शेष रु. 93,04,552.00 में से व्यापारी के द्वारा रु. 92,50,772.00 पूर्व में ही जमा करने के कारण रु. 53,780.00 की माँग निकाली गयी।

पत्रावली में संलग्न माह जनवरी 2008, फरवरी 2008 तक मार्च 2008 के अनुलग्नक 'ए' की जाँच पर पाया गया कि व्यापारी के द्वारा इन माहों में क्रमशः रु. 50,69,266.00, रु. 42,30,754.00 एवं रु. 31,45,341.00 के FC/BC, लोगों, मेनलीड, चेसिस, पैनल एवं F/C मैटीरियल की खरीद पर 12.5 प्रतिशत की दर से आई.टी.सी. का क्लेम किया है एवं इसके समायोजन का लाभ भी उसे कर निर्धारण के समय दिया जा चुका है। जबकि उक्त वस्तुएँ टी.वी. पार्ट्स, टी.वी. पिक्चर ट्यूब पार्ट्स एवं इलेक्ट्रिकल गुड्स हैं तथा इन पर 4 प्रतिशत की करदेयता है। इस प्रकार जनवरी 2008 से मार्च 2008 के मध्य उक्त वस्तुओं की रु. 1,24,45,361.00 की खरीद पर अन्तर 8.5 प्रतिशत (12.5 प्रतिशत-4 प्रतिशत) की दर से रु. 10,57,856.00 की अधिक आई.टी.सी. का क्लेम व्यापारी के द्वारा किया गया एवं विभाग द्वारा इसके समायोजन का लाभ भी उसे दिया गया जो कि अनुमन्य नहीं था।

सम्प्रेक्षा के द्वारा उक्त तथ्य को प्रकाश में लाए जाने पर विभाग ने कहा कि वैट अधिनियम की धारा 2(पी) के अनुसार क्रेता व्यापारी के द्वारा कर का जो भुगतान खरीद पर किया जाता है उसे आई.टी.सी. के रूप में क्लेम किया जा सकता है। अतः व्यापारी द्वारा रु. 51,73,434.00 की आई.टी.सी. का उचित क्लेम किया गया है तथा सम्प्रेक्षा दल की यह आपत्ति कि व्यापारी केवल 4 प्रतिशत की आई.टी.सी. ही क्लेम कर सकता है वैट की धारा 13(1)(ए) के प्रावधानों के अनुरूप नहीं है।

विभागीय उत्तर मान्य नहीं है क्योंकि वैट अधिनियम में निर्धारित की गई अनुसूची I, II, III, IV, एवं V में वर्गीकृत की गयी वस्तुओं पर निर्धारित दर से कर आरोपित किए जाने का प्रावधान है। सन्दर्भित प्रकरण में टी.वी. पार्ट्स पर करदेयता अनुसूची II के अनुसार 4 प्रतिशत की दर से है, जबकि व्यापारी द्वारा 12.5 प्रतिशत की दर से आई.टी.सी. का दावा किया गया है जो कि विधिनुकूल नहीं है। अतः प्रकरण संज्ञान में लाया जाता है।

3. "आई.टी.सी. क्लेम के रूप में अधिक भुगतान"

सर्वश्री 'क' व्यापारी विभाग में इलेक्ट्रानिक्स गुड्स के निर्माण एवं बिक्री हेतु प्रा. लि. के रूप में पंजीकृत है। संगत वर्ष 2007-08 के जनवरी 2008 से मार्च 2008 की अवधि का कर निर्धारण व्यापारी के द्वारा घोषित आँकड़ों को स्वीकार करते हुए वैट अधिनियम की धारा-28 के अन्तर्गत किया गया। व्यापारी के कुल कर योग्य बिक्री रु. 25,21,62,758 पर रु. 1,18,21,286 कर आरोपित किया गया जिसमें से रु. 72,51,427.00 संगत वर्ष 2007-08 में अर्जित आई.टी.सी. के विरुद्ध समायोजित किया गया।

चाबी व उनके पार्ट्स पर 4 प्रतिशत की करदेयता अनुसूची-II के 'भाग-क' के क्रमांक-77 के अनुसार निर्धारित की जा चुकी है जबकि व्यापारी द्वारा 12.5 प्रतिशत से आई.टी.सी. का दावा किया गया है जो कि विधिनुकूल नहीं है। प्रकरण संज्ञान में लाया जाता है।

2. "आई.टी.सी. क्लेम के रूप में अधिक भुगतान"

सर्वश्री 'क' व्यापारी विभाग में टी.वी. चेसिस, कलर टी.वी. के निर्माण एवं बिक्री के अतिरिक्त इलेक्ट्रानिक्स कम्पोनेन्ट की ट्रेडिंग हेतु लिमिटेड कम्पनी के रूप में पंजीकृत है। संगत वर्ष 2007-08 (1.1.08 से 31.3.08) के केन्द्रीय एवं प्रांतीयवाद में व्यापारी का कर निर्धारण उसके खातों को स्वीकार करके किया गया। प्रांतीय कर निर्धारण निम्नवत् किया गया :-

(1)	स्वनिर्मित टी.वी. की बिक्री	11,49,35,308.69	12.5 प्रतिशत	1,43,66,914.00
(2)	स्वनिर्मित चेचिस की बिक्री	27,76,799.68	4 प्रतिशत	1,11,072.00

उक्त देय कर में से रु. 51,73,434.00 संगत वर्ष में क्लेम की गई आई.टी.सी. के विरुद्ध समायोजित किया गया तथा शेष रु. 93,04,552.00 में से व्यापारी के द्वारा रु. 92,50,772.00 पूर्व में ही जमा करने के कारण रु. 53,780.00 की माँग निकाली गयी।

पत्रावली में संलग्न माह जनवरी 2008, फरवरी 2008 तक मार्च 2008 के अनुलग्नक 'ए' की जाँच पर पाया गया कि व्यापारी के द्वारा इन माहों में क्रमशः रु. 50,69,266.00, रु. 42,30,754.00 एवं रु. 31,45,341.00 के FC/BC, लोगों, मेनलीड, चेचिस, पैनल एवं F/C मैटीरियल की खरीद पर 12.5 प्रतिशत की दर से आई.टी.सी. का क्लेम किया है एवं इसके समायोजन का लाभ भी उसे कर निर्धारण के समय दिया जा चुका है। जबकि उक्त वस्तुएँ टी.वी. पार्ट्स, टी.वी. पिकचर ट्यूब पार्ट्स एवं इलेक्ट्रिकल गुड्स हैं तथा इन पर 4 प्रतिशत की करदेयता है। इस प्रकार जनवरी 2008 से मार्च 2008 के मध्य उक्त वस्तुओं की रु. 1,24,45,361.00 की खरीद पर अन्तर 8.5 प्रतिशत (12.5 प्रतिशत-4 प्रतिशत) की दर से रु. 10,57,856.00 की अधिक आई.टी.सी. का क्लेम व्यापारी के द्वारा किया गया एवं विभाग द्वारा इसके समायोजन का लाभ भी उसे दिया गया जो कि अनुमन्य नहीं था।

सम्प्रेक्षा के द्वारा उक्त तथ्य को प्रकाश में लाए जाने पर विभाग ने कहा कि वैट अधिनियम की धारा 2(पी) के अनुसार क्रेता व्यापारी के द्वारा कर का जो भुगतान खरीद पर किया जाता है उसे आई.टी.सी. के रूप में क्लेम किया जा सकता है। अतः व्यापारी द्वारा रु. 51,73,434.00 की आई.टी.सी. का उचित क्लेम किया गया है तथा सम्प्रेक्षा दल की यह आपत्ति कि व्यापारी केवल 4 प्रतिशत की आई.टी.सी. ही क्लेम कर सकता है वैट की धारा 13(1)(ए) के प्रावधानों के अनुरूप नहीं है।

विभागीय उत्तर मान्य नहीं है क्योंकि वैट अधिनियम में निर्धारित की गई अनुसूची I, II, III, IV, एवं V में वर्गीकृत की गयी वस्तुओं पर निर्धारित दर से कर आरोपित किए जाने का प्रावधान है। सन्दर्भित प्रकरण में टी.वी. पार्ट्स पर करदेयता अनुसूची II के अनुसार 4 प्रतिशत की दर से है, जबकि व्यापारी द्वारा 12.5 प्रतिशत की दर से आई.टी.सी. का दावा किया गया है जो कि विधिनुकूल नहीं है। अतः प्रकरण संज्ञान में लाया जाता है।

3. "आई.टी.सी. क्लेम के रूप में अधिक भुगतान"

सर्वश्री 'क' व्यापारी विभाग में इलेक्ट्रानिक्स गुड्स के निर्माण एवं बिक्री हेतु प्रा. लि. के रूप में पंजीकृत है। संगत वर्ष 2007-08 के जनवरी 2008 से मार्च 2008 की अवधि का कर निर्धारण व्यापारी के द्वारा घोषित आँकड़ों को स्वीकार करते हुए वैट अधिनियम की धारा-28 के अन्तर्गत किया गया। व्यापारी के कुल कर योग्य बिक्री रु. 25,21,62,758 पर रु. 1,18,21,286 कर आरोपित किया गया जिसमें से रु. 72,51,427.00 संगत वर्ष 2007-08 में अर्जित आई.टी.सी. के विरुद्ध समायोजित किया गया।

पत्रावली में संलग्न माह जनवरी 2008 से मार्च 2008 के अनुलग्नक 'ए' की जाँच पर पाया गया कि व्यापारी के द्वारा इन माहों में सी.टी.वी. पार्टस, मानीटर पार्टस, रिमोट पार्टस, नेम प्लेट, स्टिकर्स, सी.टी.वी. बिक्रेटस, बैटरी कवर/केस ए/केस बी, शील्ड मेटल, लेबल, ए.सी.सी. पार्टस एवं होल्डर की रु. 94,23,697.00 की खरीद पर 12.5 प्रतिशत की दर से आई.टी.सी. का क्लेम किया गया है तथा कर निर्धारण के समय इसके समायोजन का लाभ भी व्यापारी को दे दिया गया है जबकि वैट में उक्त वस्तुओं पर 4 प्रतिशत की करदेयता है। इस प्रकार उक्त वस्तुओं की रु. 9,42,697 की खरीद पर अन्तर 8.5 प्रतिशत (12.5 प्रतिशत-4 प्रतिशत) की दर से व्यापारी के द्वारा रु. 8,01,014.00 के अधिक आई.टी.सी. का क्लेम किया गया एवं कर निर्धारण के समय उसको अनियमित समायोजन का लाभ दिया गया।

सम्प्रेक्षा के द्वारा उक्त बिन्दु को इंगित किए जाने पर विभाग ने उत्तर में कहा कि वैट अधिनियम की धारा 2 (पी)(1) के अनुसार क्रेता व्यापारी द्वारा जो कर का भुगतान खरीद पर किया गया है उसे आई.टी.सी. के रूप में क्लेम किया जा सकता है अतः व्यापारी द्वारा उचित रूप से रु. 72,51,427 की आई.टी.सी. क्लेम की गयी है। अतः सम्प्रेक्षा दल की यह आपत्ति कि व्यापारी केवल 4 प्रतिशत की दर से आई.टी.सी. क्लेम कर सकता है वैट की धारा 13 (1)(ए) के प्रावधानों के अनुरूप नहीं है।

विभागीय उत्तर मान्य नहीं है क्योंकि वैट अधिनियम में निर्धारित की गई अनुसूची I, II, III, IV, एवं V में वर्गीकृत की गयी वस्तुओं पर निर्धारित दर से कर आरोपित किए जाने का प्रावधान है। सन्दर्भित प्रकरण में टी.वी. पार्टस पर करदेयता अनुसूची के अनुसार 4 प्रतिशत की दर से है, जबकि व्यापारी द्वारा 12.5 प्रतिशत की दर से आई.टी.सी. का दावा किया गया है जो कि विधि नुकूल नहीं है।

अतः प्रस्तर संज्ञान में लाया जाता है।

4. "आई.टी.सी. क्लेम के रूप में अधिक भुगतान"

सर्वश्री 'क' व्यापारी वर्ष 2007-08 में गियर, सिक्रानाईजर्स, ट्रॉस एक्सल एवं एलाय स्टील फोर्जिंग के निर्माण एवं बिक्री के कारोबार हेतु विभाग में पंजीकृत रहे।

संगत वर्ष के लिये व्यापारी द्वारा दि. 1.1.08 से 31.3.08 तक की अवधि के लिए प्रस्तुत किये गये आंकड़ों को स्वीकार करके दि. 4.8.10 को पारित किये गये प्रान्तीय कर निर्धारण आदेश की लेखा परीक्षा में यह तथ्य प्रकाश में आया कि व्यापारी द्वारा माह फरवरी-08 व मार्च-08 में Annexure-'A' के अनुसार कुल रु. 24,18,896.00 के गैस एवं प्रोपेन गैस की खरीद टैक्स इनवायस के विरुद्ध की गई तथा उक्त राशि पर 12.5 प्रतिशत की दर से आई.टी.सी. का क्लेम किया गया जो कि विभाग द्वारा अनुमन्य किया गया।

यहाँ उल्लेखनीय है कि गैस व प्रोपेन गैस पर अनुसूची-II के अंतर्गत 4 प्रतिशत की करदेयता है जबकि व्यापारी द्वारा 12.5 प्रतिशत की दर से आई.टी.सी. का क्लेम करके लाभ लिया गया। अतः अन्तरीय दर 8.5 प्रतिशत से व्यापारी द्वारा रु. 2,05,606.00 अधिक आई.टी.सी. का लाभ लिया गया जिसे विभाग द्वारा अनुमन्य किया जाना विधिनुकूल नहीं था।

सम्प्रेक्षा द्वारा इंगित किये जाने पर विभाग ने अपने उत्तर में कहा कि वैट एक्ट की धारा-2(9) के अनुसार व्यवस्था है कि "किसी ऐसे रजिस्ट्रीकृत व्यापारी जिसने राज्य के भीतर से कोई माल क्रय किया हो, के सम्बन्ध में इनपुट टैक्स" का तात्पर्य ऐसी सम्पूर्ण कर की धनराशि से है जो

(एक)- ऐसे रजिस्ट्रीकृत व्यापारी द्वारा ऐसे माल के क्रम के सम्बन्ध में ऐसे माल के रजिस्ट्रीकृत विक्रेता व्यवहारी को संदेय या संदृत हो और -

(दो)- जहाँ ऐसा क्रयकर्ता व्यवहारी ऐसे माल के क्रय के आवर्त पर इस अधिनियम के अधीन कर संदाय करने का दायी हो वहाँ ऐसे माल के क्रय के सम्बन्ध में स्वयं क्रयकर्ता व्यवहारी द्वारा राज्य सरकार को सीधे संदत्त है।

प्रतिबन्ध यह है कि किसी वस्तु के प्रयोग के अधिकार अन्तरण के मामले में संदत्त या संदेय कर इनपुट कर का भाग नहीं है।

वैट अधिनियम की धारा-13 के प्रावधानों के अन्तर्गत व्यापारी द्वारा नियमानुसार ही आई.टी.सी. क्लेम किया गया है। मेरे द्वारा एनेक्जर-‘ए’ में प्रदर्शित खरीद का सत्यापन व्यापारी द्वारा रखे गये खरीद के मूल टैक्स इनवायस से किया गया है उसके उपरान्त आई.टी.सी. का लाभ दिया गया है। इस प्रकार आपत्ति विधि विरुद्ध है तथा निक्षेप किये जाने योग्य है।

विभाग द्वारा दिया गया उपरोक्त उत्तर सम्प्रेक्षा में मान्य नहीं है क्योंकि वैट अधिनियम में निर्धारित की गई अनुसूची-I, II, III, IV व V में वर्गीकृत की गई वस्तुओं पर निर्धारित दर से कर आरोपित किये जाने का प्रावधान है। संदर्भित प्रकरण में गैस तथा प्रोपेन गैस पर 4 प्रतिशत की करदेयता अनुसूची-II के अनुसार निर्धारित की जा चुकी है जबकि व्यापारी द्वारा 12.5 प्रतिशत से आई.टी.सी. का दावा किया गया है जो कि विधिनुकूल नहीं है।

प्रकरण संज्ञान में लाया जाता है।

5. “आई.टी.सी. क्लेम के रूप में अधिक भुगतान”

सर्वश्री ‘क’ व्यापारी वर्ष 2007-08 में स्पाइरल पेपर कार एवं ट्यूब तथा एज प्रोटेक्टर के निर्माण एवं बिक्री के कारोबार हेतु विभाग में पंजीकृत रहे।

संगत वर्ष के लिये व्यापारी द्वारा दि. 1.1.08 से 31.3.08 तक की अवधि के लिये व्यापारी द्वारा प्रस्तुत आंकड़ों को स्वीकार करके विभाग द्वारा दि. 2.11.10 को पारित किये गये प्रान्तीय कर निर्धारण आदेश की लेखा परीक्षा में यह तथ्य प्रकाश में आया कि व्यापारी द्वारा माह जनवरी-08 से मार्च-08 के मध्य कुल रु. 5,56,147.00 का आई.टी.सी. क्लेम किया गया था। व्यापारी द्वारा माह जनवरी-08, फरवरी-08 तथा मार्च-08 माहों के लिये टैक्स इनवायस के विरुद्ध की गई खरीद में से माह जनवरी-08 व फरवरी-08 में क्रमशः कुल रु. 10,97,557.00 तथा रु. 5,81,077.25 का “ग्रे बोर्ड” तथा “ग्रे बोर्ड (डीलक्स)” क्रय किया गया तथा उक्त पर 12.5 प्रतिशत की दर से भुगतान किया गया कर क्रमशः रु. 1,37,195.00 तथा 72,635.00 अर्थात् कुल रु. 2,09,830.00 आई.टी.सी. क्लेम किया गया जबकि सर्वश्री खन्ना पेपर एजेन्सी, 6 महापालिका कटरा, नीचे बाग, वाराणसी के मामले में वाणिज्य कर, उत्तर प्रदेश, लखनऊ (पूर्णपीठ) द्वारा दि. 3.6.2009 (2009) 40 NTN 47 (Trib) (FB) को दिये गये निर्णय में “ग्रे बोर्ड” को वैट अधिनियम की अनुसूची-II, भाग-‘क’ के क्रमांक-90 के अन्तर्गत “Packing cases and packing materials” मानते हुये 4 प्रतिशत की करदेयता निर्धारित की जा चुकी है। अतः व्यापारी द्वारा जनवरी-08 व फरवरी-08 में क्रय किये गये कुल “ग्रे बोर्ड” की राशि रु. 16,78,634.25 पर अतरीय दर 8.5 प्रतिशत (12.5-4.0) से व्यापारी द्वारा रु. 1,42,684.00 अधिक आई.टी.सी. क्लेम किया गया, जिसे विभाग ने अनुमन्य कर दिया।

सम्प्रेक्षा द्वारा इंगित किये जाने पर विभाग ने अपने उत्तर में कहा कि वैट एक्ट की धारा-9(2) के अनुसार व्यवस्था है कि “किसी ऐसे रजिस्ट्रीकृत व्यापारी जिसने राज्य के भीतर से कोई माल क्रय किया हो, के सम्बन्ध में इनपुट टैक्स” का तात्पर्य ऐसी सम्पूर्ण कर की धनराशि से है जो -

(एक)- ऐसे रजिस्ट्रीकृत व्यापारी द्वारा, ऐसे माल के क्रय के सम्बन्ध में ऐसे माल के रजिस्ट्रीकृत विक्रेता व्यवहारी को संदेय या संदृत हो और -

(दो)- जहाँ ऐसा क्रयकर्ता व्यवहारी ऐसे माल के क्रय के आवर्त पर इस अधिनियम के अधीन कर संदाय करने का दायी हो वहाँ ऐसे माल के क्रय के सम्बन्ध में स्वयं क्रयकर्ता व्यवहारी द्वारा राज्य सरकार को सीधे संदत्त है।

प्रतिबन्ध यह है कि किसी वस्तु के प्रयोग के अधिकार अन्तरण के मामले में संदत्त या संदेय कर इनपुट कर का भाग नहीं है।

वैट अधिनियम की धारा-13 के प्रावधानों के अनुसार व्यापारी द्वारा आई.टी.सी. क्लेम की गई है। खरीद का सत्यापन खरीद के टैक्स इनवायस की मूल प्रतियों से करने के उपरान्त ही आई.टी.सी. का लाभ दिया गया है। आपत्ति विधि विरुद्ध है अतः निक्षेप योग्य है। अधिनियम की धारा-13 की छायाप्रति संलग्न है।

विभाग द्वारा दिया गया उपरोक्त उत्तर सम्प्रेक्षा में मान्य नहीं है क्योंकि वैट अधिनियम में निर्धारित की गई अनुसूची-I, II, III, IV व V में वर्गीकृत की गई वस्तुओं पर निर्धारित दर से कर आरोपित किये जाने का प्रावधान है। सन्दर्भित प्रकरण में 'ग्रे बोर्ड' पर 4 प्रतिशत की करदेयता ट्रिब्यूनल के उपरोक्त निर्णय दि. 3.6.09 में अनुसूची-II, भाग-'क' क्रमांक-90 के अनुसार निर्धारित की जा चुकी है जबकि व्यापारी द्वारा 12.5 प्रतिशत से आई.टी.सी. का दावा किया गया है जो कि विधिनुकूल नहीं है।

प्रकरण संज्ञान में लाया जाता है।

6. मिथ्या एवं कपटपूर्ण तरीके से टैक्स इनवाइस पर की गई खरीद की आई.टी.सी. का उत्क्रमित न किया जाना।

सर्वश्री 'क' व्यापारी ने वर्ष 2007-08 (01-01-08 से 31-03-08 तक) में बी.ओ.पी.पी. सेल्फ एड्रेसिव टेप की निर्माण एवं बिक्री का व्यापार किया। संगत वर्ष में व्यापारी के घोषित लेखों एवं वार्षिक विवरणी फार्म-26 को मान्यता प्रदान करते हुए केंद्रीय एवं प्रान्तीय वाद में स्व कर निर्धारण स्वीकृत किया गया।

पत्रावली एवं वार्षिक विवरणी की जांच पर देखा गया कि व्यापारी की कुल बिक्री रु. 32,77,316/- पर रु. 1,30,226/- का कर स्वीकार किया गया, जिसमें अर्जित आई.टी.सी. रु. 1,12,070/- में से रु. (1,11,638 + 432) 1,12,070 रु. को समायोजित करते हुए अधिक जमा कर रु. 23,957/- (42,113-18,156) को कैरी फारवर्ड किया गया है।

पुनः पत्रावली देखने पर यह तथ्य प्रकाश में आया कि व्यापारी ने अनुलग्नक 'ए' में एक ही व्यापारी Uflex Limited के लिए तीन प्रकार के टिन नं. 09466000196, 09365900188 तथा 09465800254 का उल्लेख किया है, जिसमें से वाणिज्य कर की अधिकारिक बेवसाइट के अनुसार टिन नं. 09465800254 ही सही है। शेष दो मिथ्या टिन नं. के आधार पर अनुलग्नक 'ए' में की गई खरीद का विवरण निम्न है :-

क्र. सं.	टिन नं.	टैक्स इनवाइस की तिथि	माल का मूल्य	वैट टैक्स
1.	09365900188	03.03.08	680553.00	27222.00
2.	09365900188	24.03.08	765893.00	30636.00
3.	09466000196	20.01.08	562356.00	22494.00
योग			2008802.00	80352.00

इस प्रकार उपरोक्त खरीद रु. 2008802/- पर रु. 80352/- की मिथ्या एवं कपटपूर्ण ढंग से आई.टी.सी. अर्जित की गई है, जिसे वैट अधिनियम की धारा 14 के अन्तर्गत उत्क्रमित किया जाना चाहिए, जिस पर देय तिथि से जमा की तिथि तक नियमानुसार ब्याज भी देय है।

इस मामले को विभाग को सूचित किए जाने पर विभाग ने जांचोपरान्त आवश्यक कार्यवाही किए जाने का आश्वासन दिया।

7. इनपुट टैक्स क्रेडिट की गलत अनुमन्यता

सर्वश्री 'क' व्यापारी ने वर्ष 2007-08 (1.1.08 से 31.3.08) में इलेक्ट्रानिक्स गुड्स की खरीद-विक्री का व्यापार किया। संगत अवधि में व्यापारी द्वारा प्रान्त अन्दर टैक्स इनवायस से रु. 2,19,14,001 की खरीद पर रु. 18,16,088 की इनपुट टैक्स क्रेडिट का दावा किया गया। व्यापारी द्वारा घोषित आँकड़ों को स्वीकार करके बाद का निस्तारण डीमड रूप से किया गया है।

पत्रावली की जांच में हमने देखा कि संगत वर्ष 2007-08 (1.1.08 से 31.3.08) की अवधि में प्रान्त अन्दर टैक्स इनवायस से खरीद गये इलेक्ट्रानिक्स गुड्स पर बिक्रेता व्यापारी से रु. 31,13,562 के क्रेडिट नोट्स प्राप्त हुए हैं। उल्लेखनीय है कि खरीदे गये इलेक्ट्रानिक्स गुड्स पर 4 प्रतिशत व 12.5 प्रतिशत की दर से इनपुट टैक्स क्रेडिट का दावा किया गया है। वैट अधिनियम की धारा-21(4) के अनुसार जिस धनराशि के लिये बिक्रेता व्यापारी से क्रेता व्यापारी को क्रेडिट नोट मिला है उस धनराशि पर इनपुट टैक्स अनुमन्य नहीं है। संगत अवधि में प्रांत अन्दर टैक्स इनवायस से रु. 2,19,14,001 की खरीद पर रु. 18,16,088 इनपुट टैक्स क्रेडिट का दावा किया गया जिस पर बिक्रेता व्यापारी से रु. 31,13,562 के क्रेडिट नोट प्राप्त हुए हैं तथा धारा 21(4) के अनुसार क्रेडिट नोट की धनराशि रु. 31,13,562 पर 4 प्रतिशत से रु. 1,24,542/- इनपुट टैक्स क्रेडिट अनुमन्य नहीं है।

हमारे द्वारा लेखा परीक्षा में इंगित किये जाने पर कर निर्धारण अधिकारी द्वारा बताया गया कि व्यापारी द्वारा क्रेडिट नोट की धनराशि को लास/प्रोफिट में टैडिंग एकाउण्ट के अन्तर्गत ले जाया गया है। इन्सेटिव व कम्पेन्सेशन पर उत्क्रमित इनपुट टैक्स क्रेडिट किये जाने योग्य नहीं है। फिर भी प्रतिकूल तथ्य पाये जाने पर विधि अनुसार कार्यवाही की जायेगी। कर निर्धारण अधिकारी का उत्तर मान्य नहीं है क्योंकि व्यापारी द्वारा दाखिल डेविट सूची क्रमांक 1 में अंकित रु. 8,583 के Discount पर प्राप्त क्रेडिट नोट से प्रमाणित है कि खरीदे गये माल पर ही क्रेडिट नोट प्राप्त हुए हैं। कृत कार्यवाही लेखा परीक्षा में प्रतिक्षित रहेगी।

Para no 1 to 5

In these audit obseravations, the A.As. allowed I.T.C.@12.5% on the purchase amounts while the goods purchased by dealers belong to 4% rate of tax. Hence, the excess adjustment of I.T.C. for the differencial amount was done by the A.As.

The A.As have to see whether the paid amount of I.T.C. shown in Annexure 'A' ie "Staement of purchase details" is correct and the selling dealer had charged tax on sold goods at the correct rate of tax. But, in case of above paras the A.As failed to exercise such observations.

Para no 6

From the scruting of Annexure 'A' it has been noticed that TIN number of two selling dealers did not pertain to them. Hence, the purchases made from them did not belong from registered dealers and therefore, the A.A. had to revesre I.T.C. but he failed to do so.

Para no 7

No credit of amount of ITC in respect of which purchasing dealer has received credit note from the selling dealer shall be allowed as ITC as per section-21 (4).

In this paragraph, the A.A. allowed I.T.C. on the amount of credit note received by the dealer against his purchase amount while the ITC was to be allowed on the actual purchase amount arrived after deduction of the amount of credit note.

CHAPTER-12

PENALTY

12.1 Penalties in certain cases –

(1) The assessing authority, if he is satisfied that any dealer or other person, as the case may, has committed the wrong described in column-(2) of the table below, it may, after such inquiry, if any, as it may deem necessary and after giving dealer or person reasonable opportunity of being heard, direct that such dealer or person shall, in addition to the tax, if any, payable by him pay by way of penalty, a sum as provided in column (3) against the same serial no. of the said tables : [section-54]

Sl.No.	Wrong	Amount of penalty (3)
(1)	(2)	
1	The dealer has without reasonable cause failed to deposit the tax due for any tax return for any tax period in the prescribed manner; or within the time prescribed or extended ;	20% of tax payable
2	The dealer has concealed particular of his turnover or has deliberately furnished inaccurate particulars of such turnover; or submits a false tax return under this Act or evades payment of tax which he is liable to pay under this act.	Three times of amount of tax concealed or avoided
3	(i) The dealer has maintained or produced false accounts, registers or documents; (ii) Being dealer or any other person who is required to maintain any book, account to other document, does not maintain such book, account or documents as prescribed	Three times of amount of tax concealed or avoided
4	The dealer has without reasonable cause failed, to pay within the time allowed, the tax assessed ;	20% of tax assessed
5 (i) (ii) (iii)	Where the dealer has - failed to issue or has deliberately not issued a tax invoice or sale invoice; or deliberately not obtained tax invoice in spite of being a registered dealer while purchasing the goods liable to tax under this Act from a registered dealer; or not issued purchase invoice; in accordance with the provisions of this Act.	40% of the value of goods (w.e.f. 27.2009)
6	The dealer has failed to issue a challan, transfer invoice or transport memo in respect of dispatch or delivery of goods in accordance with the provisions of this Act;	40% of the value of goods

7	Where the dealer -	
(i)	being liable for registration under this act has failed to apply in the prescribed manner and within the specified time; or	Rupees one hundred per day during which business is carried
(ii)	being liable for registration carries on or continues to carry on business - (a) after his application for registration has been rejected; or (b) after his registration certificate has been cancelled; or (c) without furnishing the security demanded for grant or continuation of registration;	
8	On demand by the officer empowered under this Act, to inspect, examine and obtain copy, the dealer or other person, as the case may be, refuses or neglects - (i) to produce any book, document or account; or (ii) to operate his computer used in connection with business; or (iii) to allow copies or print outs etc;	A sum of rupees five thousands and five time thereof if act is repeated
9	The dealer or other person, as the case may be, obstructs or prevents an officer empowered under section 45 or section 48 from performing any of his function under this Act;	A sum of rupees five thousands dealer and five times thereof in case of others] (w.e.f.27-2009)
10	The dealer or other person, as the case may be, refuses or neglects to furnish any information, which is in his knowledge or possession or furnishes false information;	A sum of rupees five thousand in case of registered dealer and five times thereof in case of other
11	Where the dealer or other person, as the case may be - (i) issues or furnishes a false or wrong certificate or from declaration prescribed under the Act, by reason of which a tax on sale or purchase, ceases to be leviable, whether in full or in part; or (ii) issues a tax invoice or sale -invoice without actual sale of goods; or (iii) issues a transport memo, challan or transfer invoice without actual dispatch or delivery of goods; or (iv) receives a tax invoice or sale - invoice without actual purchase of goods; or (v) receives a transport memo, challan or transfer invoice without actual receipt of goods; or (vi) issues or furnishes a false tax invoice, sale invoice certificate or declaration, by a reason of which a tax on sale or purchases ceases to be leviable under this Act or rules made under	50% of the value of goods

12	Where a dealer or other person, as the case may be - (i) makes use of a prescribed form of declaration or certificate which has not been obtained by him or by his principal or agent in accordance with the provisions under this Act; or (ii) transfers a prescribed form of declaration or certificate to any other person except for lawful purposes; or (iii) possesses a prescribed form of declaration or certificate which has not been obtained by him in accordance with the provision of this Act;	50% of value of goods
13	Where the dealer or other person, as the case may be - (i) closes or leaves place of business with an intention of avoiding inspection under this Act; or (ii) being a driver or person in-charge of vehicle leaves the vehicle with an intention of avoiding inspection of goods and documents; or (iii) willfully does not stop the vehicle carrying taxable goods required by an officer empowered to inspect goods;	A sum of rupees five thousand in case of registered dealer and five times thereof in case of others
14	Where the dealer or any other person, as the case may be : (i) imports or attempts to import or abets the import of any goods, in contravention of the provisions under section 50 or section 51 with a view to intention of evading payment of tax on sale of - (a) such of - (b) Goods manufactured ,processed or packed by using such goods; or (ii) Transports, attempts to transport any taxable goods in contravention of any provision of this Act;	40% of the value of goods
15	Where the driver or person in charge of the vehicle as the case may be, (i) fails to carry documents referred to in section 52 and also fails to prove that goods carried in his vehicle are meant for delivery to dealers or persons outside the State; or (ii) while carrying such documents for transit of goods through the state undertakes responsibility of handing over such goods to a bonafide person inside the State for carrying them outside the State but fails to hand over such goods to such bonafide person; or (iii) being a person, who receives any goods form driver or person in charge of a vehicle for carrying them outside the State, does not carry such goods outside the State; or (iv) being transporter or hirer of vehicle prepares goods-receipt by showing false destination of goods outside the State;	40% of the value of goods (w.e.f.27.8.09)

16	Where any dealer demands or charges or realizes any amount as tax in contravention of the provision of ordinance;	3 times of tax so realized
17	Being driver or person in-charges of vehicle fails to stop the vehicle with deliberate intent to avoid inspection of goods or search of such vehicle;	Rupees twenty five thousands
18	Where dealer or any other person as the case may be, makes a false verification, declaration or attestation in any matter connected with this Act;	A sum of rupees twenty five thousands or three times of tax avoided thereby whichever is higher
19	Where dealer or any other person as the case may be, falsely or fraudulently claims an amount as input tax credit;	A sum equal to 5 times of amount input tax credit
20	Being transporter, carrier or other transport agent carries or transports goods without filling relevant columns on a transport memo, challan or transfer invoice;	Rupees five thousands
21	Dealer or any other person, as the case may be tampers with any seal put under sub - section 6 of section 45	Rupees twenty five thousands
21A.	Where the dealer has included the amount of tax paid or payable, on the turnover of purchase of the goods in the sale price of goods resold or goods manufactured by using such goods.	not less than the amount of tax but not more then three times of tax which has been included in the sale price of the goods (w.e.f. 27.2.09)
21B.	Where the dealer or any other person, as the case may be, has issued or received any tax invoice or sale invoice or any other document pertaining to value of goods as the case may be containing value of goods undervalued to the extent more then fifty percent of the value of goods prevalent at the relevant time in the local market area where the transaction has taken place, with intention to evade payment of tax.	40% of the value of goods. (w.e.f. 27.2.09)
22	Dealer or any other person who, otherwise acts in contravention of the provisions of this Act or rules made hereunder,	Rupees ten thousands

12.2 A copy of the order passed under sub- section (1) shall be served on the dealer or person concerned and the amount imposed by way of penalty shall be deposited by such dealer or person in such manner as may be prescribed within thirty days of such service, failing which it may be recovered in the manner provided under section 33 of the Act.

12.3 Where any penalty order passed by assessing authority either under this section or any other section, is quashed by any authority or court in exercise of powers vested in it on the ground that show cause notice issued to dealer or any other person is not in accordance with the provisions of this Act, the assessing authority may pass fresh order of penalty after issuing proper notice within one year from the date of receipt or such order,.

12.4 Where in case of a sick unit as referred to in section 71, of the Act any penalty order has been passed ex parte and appeal has not been filed against such order, if the State Government issues direction to the assessing authority to set aside such order and to pass fresh order of penalty, assessing authority shall pass such fresh order of penalty within a period of one year from the date on which it receives the order or direction by due process from the State government.

12.5 Gist of some interesting paragraphs, contributed by our Audit team during the course of Audit are given below:

1. Two dealers claimed I.T.C. on purchase of some goods showing rate of tax @ 12.5% instead of 4% which resulted in excess claim of I.T.C. of ₹ 18.59 lakh. So, as per provisions of section 54 (1) 19, the dealers are liable to be imposed penalty for falsely/ fraudulently claims of ITC.
2. A dealer claimed ITC fraudulently on the amount of credit notes received by him during tax period. Therefore, he is liable to be imposed penalty under section 54 (1) (19) of the Act.
3. A dealer claimed ITC fraudulently against purchases by recording fictitious selling dealers with wrong TIN numbers. Therefore, the dealer is liable to be imposed penalty under section 54(1) 19 of the Act.
4. A dealer adjusted total I.T. C. earned including the amount of entry tax paid on imported purchase of paper. As the benefit of paid entry tax in the shape of ITC is not admissible, the dealer is liable to be imposed penalty under section 54 (1) 19 of the Act
5. A dealer adjusted ITC earned on the purchase of Capital goods during the tax period while ITC earned on capital goods shall be claimed in three successive annual instalments of equal amount and be claimed in the tax return of the first tax period of the assessment year. So, he is liable to be imposed penalty under section 54(1) 19 of Act for wrong adjustment of ITC.

11.6 Example of some good audit observations are given below. Reasons why they are classified as good are given after the examples:

1. "अर्थदण्ड का अनारोपण"

उत्तर प्रदेश मूल्य संवर्धित कर अधिनियम, 2008 की धारा-54(1)19 के अनुसार यदि कोई व्यापारी इनपुट टैक्स क्रेडिट के रूप में मिथ्या या कपटपूर्ण तरीके से धनराशि का दावा करता है तो इनपुट टैक्स क्रेडिट की राशि के पाँच गुना राशि के बराबर अर्थदण्ड आरोपणीय होगा।

सर्वश्री 'क' व्यापारी के वर्ष 2007-08 के प्रान्तीय वाद हेतु दि. 1.1.08 से 31.3.08 तक की अवधि के लिए व्यापारी द्वारा प्रस्तुत आंकड़ों को स्वीकार करके विभाग द्वारा दि. 26.2.2011 को पारित किये गये प्रान्तीय कर निर्धारण आदेश की लेखा परीक्षा में यह तथ्य प्रकाश में आया कि व्यापारी द्वारा रु. 44,575.00 के इनपुट टैक्स क्रेडिट का दावा प्रिन्टिंग स्टेशनरी, लुब्रिकेन्ट, इलेक्ट्रिकल फिटिंग्स, पेन्टिंग, व्हीकल स्पेयर पार्ट्स, टी-बैग व फिनायल की खरीद पर किया गया था जिसे उत्तर प्रदेश मूल्य संवर्धित कर अधिनियम, 2008 की धारा-13 एवं उपरोक्त अधिनियम की नियमावली के नियम-21 के अनुरूप न होने के आलोक में विभाग द्वारा अस्वीकार कर दिया गया था। इस प्रकार व्यापारी द्वारा किये गये रु. 44,575.00 के मिथ्या इनपुट टैक्स क्रेडिट के दावे हेतु उन पर उक्त राशि की पाँच गुना राशि अर्थात् रु. 2,22,875.00 अर्थदण्ड आरोपणीय था जो कि आरोपित नहीं किया गया।

सम्प्रेक्षा द्वारा इंगित किये जाने पर विभाग ने अपने उत्तर में कहा कि धारा-54(1)19 के अन्तर्गत अर्थदण्ड तभी आरोपित किया जा सकता है जबकि "Where dealer or anyother person, as the case may be, falsely or fraudulently claims an

amount as input tax". उक्त मामले में falsely or fraudulently की ingredient न होने के कारण अर्थदण्ड आरोपित किया जाना नियमानुसार नहीं है। अतः आडिट आपत्ति निक्षेप योग्य है।

विभाग द्वारा दिया गया उपरोक्त उत्तर सम्प्रेक्षा में मान्य नहीं है क्योंकि व्यापारी द्वारा उपरिलिखित धारा-13 व नियम-21 का उल्लंघन करते हुये रु. 44,575.00 का मिथ्या इनपुट टैक्स क्रेडिट का दावा जानबूझकर किया गया था जिसे विभाग द्वारा अस्वीकार किया गया। अतः व्यापारी के उपरोक्त कृत्य हेतु उन पर धारा-54(1)19 के अनुसार अर्थदण्ड आरोपणीय होगा।

प्रकरण संज्ञान में लाया जाता है।

2. "अर्थदण्ड का अनारोपण"

उत्तर प्रदेश मूल्य संबंधित कर अधिनियम, 2008 की धारा-54(1)19 के अनुसार यदि कोई व्यापारी इनपुट टैक्स क्रेडिट के रूप में मिथ्या या कपटपूर्ण तरीके से धनराशि का दावा करता है तो इनपुट टैक्स क्रेडिट की राशि के पाँच गुना राशि के बराबर अर्थदण्ड आरोपणीय होगा।

सर्वश्री 'क' व्यापारी के वर्ष 2007-08 के प्रान्तीय वाद में दि. 1.1.08 से 31.3.08 की अवधि के लिए दि. 28.2.11 को विभाग द्वारा पारित कर निर्धारण आदेश की लेखा परीक्षा में यह तथ्य प्रकाश में आया कि व्यापारी द्वारा उपरोक्त तीन माह की अवधि के दौरान सी.टी.वी. ब्रिकेट्स, बैटरी कवर/केस 'ए' /केस 'बी', शील्ड मेटल, लेबल, ए.सी.सी. पाटर्स एवं होल्डर की रु. 94,23,697.00 की खरीद पर 12.5 प्रतिशत की दर से व्यापारी द्वारा आई.टी.सी. क्लेम की गई थी जिसका लाभ देते हुये विभाग द्वारा आरोपित कर में 12.5 प्रतिशत की दर से समायोजन कर दिया गया जबकि वैट में उपरोक्त सभी वस्तुओं पर 4 प्रतिशत की दर से करदेयता है। अतः उपरोक्त खरीद राशि पर अंतरीय दर 8.5 प्रतिशत (12.5-4.0) से रु. 8,01,014.00 अधिक आई.टी.सी. का क्लेम व्यापारी द्वारा लिया गया जिसके लिये उन पर इस धनराशि का पाँच गुना अर्थात् रु. 40,05,070.00 अर्थदण्ड आरोपणीय था जो कि आरोपित नहीं किया गया।

सम्प्रेक्षा द्वारा इंगित किये जाने पर विभाग द्वारा अपने उत्तर में कहा गया कि वैट अधिनियम की धारा-2(पी)(1) के अनुसार क्रेता व्यापारी द्वारा जिस कर का भुगतान खरीद पर किया गया है उसे आई.टी.सी. के रूप में क्लेम किया जा सकता है। अतः व्यापारी द्वारा उचित रूप से रु. 72,51,427.00 की आई.टी.सी. क्लेम की गई है। अतः सम्प्रेक्षा दल द्वारा अर्थदण्ड आरोपित न किये जाने सम्बन्धी आपत्ति निराधार है।

विभाग द्वारा दिया गया उपरोक्त उत्तर सम्प्रेक्षा में मान्य नहीं है क्योंकि वैट अधिनियम में निर्धारित की गई अनुसूची I, II, III, IV व V में वर्गीकृत की गई वस्तुओं पर निर्धारित दर से कर आरोपित किये जाने का प्रावधान है। सन्दर्भित प्रकरण में इंगित की गई वस्तुओं पर करदेयता अनुसूची-II के अनुसार 4 प्रतिशत की है जबकि व्यापारी के द्वारा 12.5 प्रतिशत की दर से आई.टी.सी. का दावा किया गया जो कि विधिनुकूल नहीं है।

प्रकरण संज्ञान में लाया जाता है।

3. "अर्थदण्ड का अनारोपण"

उत्तर प्रदेश मूल्य संवर्धित कर अधिनियम, 2008 की धारा-54(1)19 के अनुसार यदि कोई व्यापारी इनपुट टैक्स क्रेडिट के रूप में मिथ्या या कपटपूर्ण तरीके से धनराशि का दावा करता है तो इनपुट टैक्स क्रेडिट की राशि के पाँच गुना राशि के बराबर अर्थदण्ड आरोपणीय होगा।

सर्वश्री 'क' व्यापारी के वर्ष 2007-08 के प्रान्तीयवाद में दि. 1.1.08 से 31.3.08 की अवधि के लिये दि. 14.2.11 को विभाग द्वारा व्यापारी के आंकड़ों को स्वीकार करके पारित किये गये कर निर्धारण आदेश की लेखा परीक्षा में यह तथ्य प्रकाश में आया कि व्यापारी द्वारा जनवरी-08, फरवरी-08 व मार्च-08 माहों में कुल रु. 1,24,45,361.00 का एफ.सी./वी.सी., लोगों, मेनलीड, चेचिस, पैनल एवं एफ./सी. मैटेरियल क्रय किया गया था जिस पर व्यापारी द्वारा 12.5 प्रतिशत की दर से आई.टी.सी. क्लेम किया गया जिसे अनुमन्य करते हुये विभाग द्वारा आरोपित कर में से समायोजित करके व्यापारी को लाभ दिया गया था जबकि उपरोक्त वस्तुयें टी.वी. पार्ट्स, टी.वी. पिक्चर ट्यूब पार्ट्स एवं इलेक्ट्रिकल गुड्स हैं जिन पर 4 प्रतिशत की दर से करदेयता होने के परिप्रेक्ष्य में उपरोक्त खरीद राशि पर अंतरीय दर 8.5 प्रतिशत (12.5-4.0) से रु. 10,57,856.00 अधिक आई.टी.सी. का क्लेम व्यापारी द्वारा लिया गया जिसके लिये उन पर इस धनराशि का पाँच गुना अर्थात् रु. 52,89,280.00 अर्थदण्ड आरोपणीय था जो कि आरोपित नहीं किया गया।

सम्प्रेक्षा द्वारा इंगित किये जाने पर विभाग ने अपने उत्तर में कहा है कि वैट अधिनियम की धारा-2(पी) के अनुसार क्रेता व्यापारी के द्वारा कर का जो भुगतान खरीद पर किया जाता है उसे आई.टी.सी. के रूप में क्लेम किया जा सकता है। अतः व्यापारी द्वारा रु. 51,73,434.00 की आई.टी.सी. का उचित क्लेम किया गया है तथा सम्प्रेक्षा दल की यह आपत्ति कि व्यापारी केवल 4 प्रतिशत की आई.टी.सी. ही क्लेम कर सकता है वैट की धारा 13(1)(ए) के प्रावधानों के अनुरूप नहीं है। अतः आई.टी.सी. क्लेम हेतु धोखाधड़ी अथवा मिथ्या क्लेम का मामला न बनने के कारण अर्थदण्ड आरोपित किये जाने का औचित्य नहीं है।

विभाग द्वारा दिया गया उपरोक्त उत्तर सम्प्रेक्षा में मान्य नहीं है क्योंकि वैट अधिनियम में निर्धारित की गई अनुसूची I, II, III, IV व V में वर्गीकृत की गई वस्तुओं पर निर्धारित दर से कर आरोपित किये जाने का प्रावधान है। सन्दर्भित प्रकरण में इंगित की गई वस्तुओं पर करदेयता अनुसूची-II के अनुसार 4 प्रतिशत की है जबकि व्यापारी के द्वारा 12.5 प्रतिशत की दर से आई.टी.सी. का दावा किया गया जो कि विधिनुकूल नहीं है।

प्रकरण संज्ञान में लाया जाता है।

4. "अर्थदण्ड का अनारोपण"

उत्तर प्रदेश मूल्य संवर्धित कर अधिनियम, 2008 की धारा 54(1)2 के अनुसार यदि कोई व्यापारी अपने टर्न ओवर का विवरण छिपाता है या जानबूझकर ऐसे टर्नओवर के गलत विवरणों को प्रस्तुत करता है या इस अधिनियम के अन्तर्गत मिथ्या कर विवरण दाखिल करता है या इस अधिनियम के अधीन देय कर के भुगतान से बचने का प्रयास करता है तो छिपाये अथवा बचाये गये कर की राशि की तीन गुना राशि अर्थदण्ड के रूप में व्यापारी पर आरोपणीय होगी।

सर्वश्री 'क' व्यापारी के वर्ष 2008-09 के केन्द्रीय बाद के अंतर्गत दि. 17.2.2011 को पारित किये गये कर निर्धारण आदेश की लेखा परीक्षा में यह तथ्य प्रकाश में आया कि हैवी अर्थमूविंग मशीन्स के अस्वीकृत स्टॉक ट्रॉसफर दि. 1.4.08 से 29.9.08 तथा दि. 30.9.08 से 31.3.09 के लिये क्रमशः रु. 7,80,50,028.00 तथा रु. 3,97,29,025.00 की केन्द्रीय बिक्री मानते हुये क्रमशः 4 प्रतिशत व 12.5 प्रतिशत की दर से क्रमशः रु. 31,22,001.00 तथा रु. 49,66,128.00 कर आरोपित किया गया। कर निर्धारण आदेश में दी गई पूर्ण विवेचना के अनुसार व्यापारी द्वारा मद्रास, फरीदाबाद, जयपुर, हरियाणा, राजस्थान तथा तमिलनाडु को किया

स्टॉक ट्रॉसफर व माल का प्रेषण व्यापार के सामान्य क्रम में न करके पूर्व में प्राप्त क्रय आदेशों/अनुबन्धों/आर्डरों के अनुपालन में किया गया था जो कि स्टॉक ट्रॉसफर न हो कर केन्द्रीय बिक्री था। इस प्रकार व्यापारी द्वारा कर की देयता से बचने के लिए की गई बिक्री को स्टॉक ट्रॉसफर के रूप में प्रस्तुत किया गया जिसके लिये उन पर इस प्रकार आरोपित कुल कर रु. 80,88,129.00 (रु. 31,22,001 तथा रु. 49,66,128.00) का तीन गुना अर्थात् रु. 2,42,64,387.00 अर्थदण्ड भी आरोपणीय था जो कि आरोपित नहीं किया गया।

सम्प्रेक्षा द्वारा इंगित किये जाने पर विभाग ने अपने उत्तर में कहा कि वैट अधिनियम की धारा-54(1)2 के अन्तर्गत अर्थदण्ड तब ही आरोपित किया जा सकता है जबकि "The dealer has concealed particular of his turnover or has deliberately furnished inaccurate particulars of such turnover, or submit a false tax return under this act or evade payment of tax which he is liable to pay under this Act". व्यापारी के मामले में टर्नओवर को छिपाने, जानबूझकर अधूरी सूचना देने, गलत रिटर्न जमा करने अथवा करापवंचन का मामला नहीं बनता है। अतः धारा-54(1)2 के अन्तर्गत अर्थदण्ड आरोपित किया जाना न्यायोचित नहीं है। अतः सम्परीक्षा की आपत्ति कि धारा-54(1)2 में अर्थदण्ड आरोपित किया जाये, निक्षेप योग्य है।

विभाग द्वारा दिया गया उपरोक्त उत्तर सम्प्रेक्षा में मान्य नहीं है क्योंकि व्यापारी ने पूर्व में प्राप्त क्रय आदेशों/अनुबन्धों/आर्डरों के अनुपालन में माल का प्रेषण किया था जो कि स्टॉक ट्रॉसफर न होकर केन्द्रीय बिक्री था। अतः व्यापारी द्वारा करदेयता से बचने के लिये जानबूझकर केन्द्रीय बिक्री को स्टॉक ट्रॉसफर का रूप दिया गया व कर का भुगतान करने के बजाय करमुक्ति की मांग की गई। धारा-54(1)2 में स्पष्ट रूप से अंकित है कि "Or evade payment of tax which he is liable to pay under this Act" इस प्रकार व्यापारी पर अर्थदण्ड आरोपणीय है।

प्रकरण संज्ञान में लाया जाता है।

5. "अर्थदण्ड का अनारोपण"

उत्तर मूल्य संबंधित कर अधिनियम, 2008 की धारा-54(1)19 के अनुसार यदि कोई व्यापारी इनपुट टैक्स क्रेडिट के रूप में मिथ्या या कपटपूर्ण तरीके से धनराशि का दावा करता है तो इनपुट टैक्स क्रेडिट की राशि के पाँच गुना राशि के बराबर अर्थदण्ड आरोपणीय होगा।

सर्वश्री 'क' व्यापारी के वर्ष 2007-08 के सम्बन्ध में दि. 1.1.08 से 31.3.08 तक की अवधि के लिये दि. 4.8.10 को पारित किये गये प्रान्तीय कर निर्धारण आदेश की लेखा परीक्षा में यह तथ्य प्रकाश में आया कि व्यापारी द्वारा माह फरवरी-08 व मार्च-08 में Annexure-'A' के अनुसार कुल रु0 24,18,896.00 के गैस एवं प्रोपेन गैस की खरीद टैक्स इनवायस के विरुद्ध की गई तथा उक्त राशि पर 12.5 प्रतिशत की दर से आई.टी.सी. का क्लेम किया गया जो कि विभाग द्वारा अनुमन्य किया गया।

यहाँ उल्लेखनीय है कि गैस व प्रोपेन गैस पर अनुसूची-II के अंतर्गत 4 प्रतिशत की करदेयता है जबकि व्यापारी द्वारा 12.5 प्रतिशत की दर से आई.टी.सी. का क्लेम जानबूझकर लिया गया जिसके लिये व्यापारी पर उपरोक्त धनराशि पर अंतरीय दर 8.5 (12.5-4.0) से आरोपणीय कर रु. 2,05,606.00 का पाँच गुना अर्थात् रु. 10,28,030.00 अर्थदण्ड आरोपित किया जाना अपेक्षित था परन्तु आरोपित नहीं किया गया।

सम्प्रेक्षा द्वारा इंगित किये जाने पर विभाग ने अपने उत्तर में कहा कि वैट एक्ट की धारा-2(9) के अनुपालन में तथा धारा-13 के प्रावधानों के अन्तर्गत व्यापारी द्वारा नियमानुसार ही आई.टी.सी. क्लेम किया गया है। मेरे द्वारा एनेक्जर-'ए' में प्रदर्शित खरीद

का सत्यापन व्यापारी द्वारा रखे गये खरीद के मूल टैक्स इनवायस से किया गया है उसके उपरान्त आई.टी.सी. का लाभ दिया गया है। इस प्रकार आपत्ति विधि विरुद्ध है तथा निक्षेप किये जाने योग्य है।

विभाग द्वारा दिया गया उपरोक्त उत्तर सम्प्रेक्षा में मान्य नहीं है क्योंकि वैट अधिनियम में निर्धारित की गई अनुसूची-I, II, III, IV व V में वर्गीकृत की गई वस्तुओं पर निर्धारित दर से कर आरोपित किये जाने का प्रावधान है। सन्दर्भित प्रकरण में गैस तथा प्रोपेन गैस पर 4 प्रतिशत की करदेयता अनुसूची-II के अनुसार निर्धारित होने के बाद भी व्यापारी द्वारा जानबूझकर 12.5 प्रतिशत की दर से आई.टी.सी. का दावा किये जाने के आलोक में अर्थदण्ड आरोपणीय होगा।

प्रकरण संज्ञान में लाया जाता है।

6. अर्थदण्ड का अनारोपण।

सर्वश्री 'क' व्यापारी ने वर्ष 2007-08 (01-01-08 से 31-03-08) में पेपर व डुप्लेक्स बोर्ड की खरीद बिक्री का व्यापार किया। संगत वर्ष में व्यापारी के घोषित आँकड़ों को स्वीकार करके प्रान्त में कर योग्य बिक्री रु. 1,85,93,130/- पर रु. 7,47,367/- का कर आरोपित किया गया तथा जमा कर रु. 1,99,765/- व आई.टी.सी. रु. 4,43,381/- का लाभ देते हुए शेष कर रु. 44,377/- की मांग सृजित की गयी है।

पत्रावली व फार्म 26 की जांच पर देखा गया कि व्यापारी ने रु. 5,47,602/- की आई.टी.सी. अर्जित करते हुए सम्पूर्ण आई.टी.सी. की धनराशि को समायोजित किया है जिसमें से प्रान्त बाहर से आयातित पेपर पर अदा किया गया प्रवेश कर रुपया 1,14,221/- भी शामिल है। उल्लेखनीय है कि आयातित पेपर पर अदा किया गया प्रवेश कर का लाभ आई.टी.सी. के रूप में समायोजन हेतु अनुमन्य नहीं है जबकि व्यापारी ने इसे आई.टी.सी. के रूप में समायोजित कर लिया है। इस प्रकार व्यापारी ने आई.टी.सी. का गलत दावा तथा अर्जन व समायोजन रु. 1,14,221/- करके वैट अधिनियम की धारा 13 का उल्लंघन किया है। विभाग ने आयातित पेपर पर अदा किये गये प्रवेश कर का लाभ आई.टी.सी. के रूप में व्यापारी को प्रदान नहीं किया है किन्तु आई.टी.सी. का गलत दावा करने के कारण वैट अधिनियम की धारा 54(1)19 के अन्तर्गत ऐसे गलत दावा करने की धनराशि रु. 1,14,221/- का 5 गुना अर्थात् रु. 5,71,105/- का अर्थदण्ड आरोपित नहीं किया, जिसे आरोपित किया जाना चाहिए।

मामला विभाग के सूचित किये जाने पर विभाग ने नियमानुसार अर्थदण्ड की कार्यवाही परीक्षणोपरान्त किये जाने का आश्वासन दिया।

7. अर्थदण्ड का अनारोपण।

सर्वश्री 'क' व्यापारी द्वारा वर्ष 2007-2008 (01-01-08 से 31-03-08 तक) में फर्नीचर का स्टॉक ट्रांसफर प्राप्त करके बिक्री का व्यापार किया गया। संगत वर्ष में व्यापारी के फार्म 26 को मान्यता प्रदान की गयी जिससे वाद स्वकर निर्धारण में निर्धारित हो गया।

व्यापारी द्वारा प्रस्तुत वार्षिक विवरणी फार्म 26 की जांच पर देखा गया कि व्यापारी ने रु. 80,54,757/- की फर्नीचर की बिक्री अपंजीकृत व्यापारियों/व्यक्तियों को घोषित किया है तथा फार्म 49 से भेजे गये माल के विवरण में क्रेता व्यापारियों का नाम व जनपद का नाम अंकित है जिसमें श्री ग्लोबल ब्राडकास्ट, नोएडा को रु. 27,97,200/- की (रु. 4,78,800 + 3,42,000 + 4,10,400 + 5,07,600 + 4,42,800 + 2,88,000 + 90,000 + 93,600) बिक्री (1/08 से 3/08) की गयी है। इस बिक्री को व्यापारी ने अपंजीकृत को बिक्री किया जाना घोषित किया है तथा कोई टैक्स इनवायस जारी नहीं किया है जबकि श्री ग्लोबल ब्राडकास्ट, नोएडा बदला हुआ नाम आई.बी.एन. 18 ब्राडकास्ट लि. नोएडा है जिसका टिन नं. 09165702571 विभागीय अधिकारिक बेवसाइट पर उपलब्ध है और व्यापारी वाणिज्य कर कार्यालय खण्ड-3, नोएडा में पंजीकृत है (फार्म-26, अनुलग्नक-ए संलग्न

है। इस प्रकार व्यापारी द्वारा बिना टैक्स इनवायस के रु. 27,97,200/- की फर्नीचर की बिक्री पंजीकृत व्यापारी को किया जाना विधिक नहीं है और वैट अधिनियम व नियमावली के प्रावधानों के विपरीत है। अतः जानबूझकर कर बीजक जारी न करने के कारण बिक्री किये गये माल के मूल्य रु. 27,97,200/- का 40 प्रतिशत रु. 11,18,880/- अर्थदण्ड, वैट अधिनियम की धारा 54(1)5 के अन्तर्गत आरोपणीय है।

मामला विभाग को सूचित किये जाने पर विभाग ने जांचोपरान्त आवश्यक कार्यवाही किये जाने का आश्वासन दिया।

8. मिथ्या फर्मों को की गई बिक्री के कारण अर्थदंड का अनारोपण।

सर्वश्री 'क' व्यापारी द्वारा वर्ष 2007-08 (1.1.08 से 31.3.08 तक) में कोरोगेटेड बाक्स के निर्माण-बिक्री का व्यापार किया गया। संगत वर्ष 2007-08 में रु. 16,17,532.00 की सकल बिक्री पर रु. 64,702.00 कर आरोपित किया गया। प्रान्त में धारा-27 के अन्तर्गत यह डीमड कर निर्धारण है।

पत्रावली की जाँच में यह तथ्य प्रकाश में आया कि वर्ष 2007-08 (1.1.08 से 31.3.08) में फार्म 24 के समर्थन में लगे अनुलग्नक 'बी' के अनुसार नाम, पता व टिन संख्या के अनुसार मिथ्या फर्मों को रु. 3,89,958.00 की बिक्री की गई, जिसका विवरण निम्न है -

क्र.सं.	व्यापारी का नाम	टिन सं.	बिक्री की धनराशि रु. में
1	Minda S.M. Technocast Ltd. 2D/2 Greater Noida	09965801543	जनवरी-08 26968.00 फरवरी-08 43312.00 मार्च-08 10490.00 80770.00
2	Minda Silca Eng. Ltd. Plot No. 37 Toy city Greater Noida	09466200784	जनवरी-08 75438.00 फरवरी-08 93665.00 मार्च-08 96223.00 265326.00
3	Pee Art Exim Pvt. Ltd. B-42 Sector 63 Noida	09566201962	फरवरी-08 43637.00
4	Minda Locking System P Limited	09565800211	जनवरी-08 225.00
			कुल रु. 389958.00

क्रम सं. 1 पर अंकित व्यापारी का टिन संख्या के अनुसार पता गलत है। वाणिज्यकर विभाग की अधिकारिक वेबसाइट के अनुसार यह व्यापारी ग्रेटर नोयडा का नहीं है, जबकि इसे ग्रेटर नोयडा का दिखाया गया है।

क्रम सं. 2 पर अंकित व्यापारी के टिन नं. को अधिकारिक वेबसाइट पर डालने पर इसका नाम रायल कलर लैब एंड स्टूडियो आता है, जिसका पता उल्लिखित पते से भिन्न है।

क्रम सं. 3 पर अंकित टिन सं. अधिकारिक वेबसाइट के अनुसार इस क्रम पर अंकित व्यापारी के पते से भिन्न है। इसी प्रकार क्रम सं. 4 पर अंकित टिन सं. से उल्लिखित व्यापारी (नाम, पता) की अधिकारिक वेबसाइट से पुष्टि नहीं होती है।

इस प्रकार रु. 3,89,958.00 की बिक्री मिथ्या फर्मों को की गई है, जिसके लिए उ.प्र. मूल्य संवर्धितकर अधिनियम 2008 की धारा 54(i) 11(ii) के अनुसार रु. 3,89,958.00 का 50 प्रतिशत अर्थात् रु. 1,94,979.00 का अर्थदंड आरोपणीय है, जिसे आरोपित नहीं किया गया।

विभाग को सूचित किए जाने पर विभाग ने पत्रावली की जाँच कर अर्थदंड की कार्यवाही करने का आश्वासन दिया। विभाग द्वारा कृत कार्यवाही की लेखा परीक्षा को प्रतीक्षा रहेगी।

9. गलत ढंग से अर्जित आई.टी.सी. के कारण अर्थदंड का अनारोपण।

सर्वश्री 'क' व्यापारी ने वर्ष 2007-08 (1.1.08 से 31.3.08) में जूते के निर्माण व बिक्री का व्यापार किया। संगत वर्ष 2007-08 (1.1.08 से 31.3.08) में व्यापारी द्वारा घोषित लेखों को मान्यता प्रदान करते हुए रु. 39,25,680.00 की सकल बिक्री पर रु. 4,610.00 का कर आरोपित किया गया।

पत्रावली एवं फार्म 24 के अनुलग्नक 'ए' की जाँच में यह तथ्य प्रकाश में आया कि दो मिथ्या फर्मों (टिन नं. के आधार पर) से की गई रु. 10,10,193.00 की खरीद पर रु. 40,407.00 की आई.टी.सी. का लाभ लिया गया है। इसका विवरण निम्न है :-

क्र.सं.	डीलर का नाम	टैक्स इनवाइस सं. एवं तिथि	धनराशि रु. में	टैक्स
1	टाटा इन्टरलेशनल लि. जाजमऊ	91712034 8.1.08	560138.00	22405.00
2	टाटा इन्टरलेशनल लि. जाजमऊ	9171201101 23.1.08	379101.00	15164.00
3	शीला फोम प्रा. लि. ग्रेटर नोएडा	18648 12.1.08	70954.00	2838.00
			1010193.00	40407.00

क्रम सं. 1 पर अंकित व्यापारी का टिन नं. 902100265 वाणिज्य कर विभाग की अधिकारिक वेबसाइट पर मौजूद नहीं है और न ही इस नाम का कोई व्यापारी इस वेबसाइट पर है। क्रम सं. 3 पर अंकित व्यापारी का टिन नं. 9165900293 अधिकारिक वेबसाइट के अनुसार इस व्यापारी से भिन्न व्यापारी का है। इस कारण इन फर्मों से की गई खरीद रु. 10,10,193.00 पर रु. 40,407.00 की आई.टी.सी. मिथ्या एवं कपटपूर्ण ढंग से अर्जित की गई है। मिथ्या एवं कपटपूर्ण ढंग से अर्जित आई.टी.सी. के कारण उ.प्र. मूल्य संवर्धितकर अधिनियम 2008 की धारा 54(1)19 के अनुसार रु. 40407.00 का पाँच गुना अर्थात् रु. 2,02,035.00 का अर्थदंड आरोपणीय है।

विभाग को सूचित किए जाने पर विभाग ने टिन नं. की जाँच करके अग्रेतर कार्यवाही करने का आश्वासन दिया, जिसकी संप्रेक्षा को प्रतीक्षा रहेगी।

10. आई.टी.सी. के गलत समायोजन के कारण अर्थदण्ड का अनारोपण।

सर्वश्री 'क' व्यापारी द्वारा वर्ष 2007-08 (01-01-08 से 31-03-08) में इलेक्ट्रिकल स्विच के निर्माण एवं बिक्री का व्यापार किया गया। संगत वर्ष में व्यापारी के घोषित लेखों को मान्यता प्रदान करते हुए प्रान्त व केन्द्र में कर योग्य बिक्री रु. 68,60,835/- पर रु. 2,74,433/- का कर आरोपित किया गया। व्यापारी ने रु. 1,33,658/- की आई.टी.सी. अर्जित किया, जिसमें से प्रान्त में रु. 1,02,821/- को समायोजित किया है तथा रु. 30,837/- कन्साइनमेंट सेल पर आर.आई.टी.सी. किया।

पत्रावली एवं फार्म-24 की जांच में यह देखा गया कि व्यापारी ने टैक्स इनवाइस संख्या 33/03-03-08 एवं 262/- 31-03-08 से क्रमशः रु. 7,93,250/- एवं रु. 17,000/- कुल रु. 8,10,250/- की माटल्ड (कैपिटल गुड) की खरीद की है जिस पर रु. 32,410/- (31,730 + 680) की आई.टी.सी. अर्जित करते हुए उसी संगत वर्ष 2007-08 में लाभ/समायोजन कर लिया गया है, जबकि कैपिटल गुड्स पर अर्जित आई.टी.सी. का लाभ वैट नियमावली के नियम 24(ए) के अनुसार समान धनराशि की वार्षिक किस्तों में अगले तीन वर्षों में लिया जाना चाहिए था। इस प्रकार व्यापारी द्वारा कैपिटल गुड्स पर रु. 32,410/- की आई.टी.सी. का गलत लाभ/समायोजन लिया गया है। अतः आई.टी.सी. का गलत लाभ/समायोजन लिए जाने के कारण वैट अधिनियम 2008 की धारा 54(1)19 के अन्तर्गत रु. 32,410/- का 5 गुना अर्थात् रु. 1,62,050/- अर्थदण्ड आरोपणीय है।

मामला विभाग को सूचित किए जाने पर विभाग ने जांचोपरान्त आवश्यक कार्यवाही किए जाने का आश्वासन दिया।

Para no-1, 2, 3 & 5

According to section 54(1) 19 of the VAT Act where dealer or any other person, as the case may be, falsely or fraudulently claims an amount as ITC, he is liable to be imposed penalty a sum equal to 5 times of amount of ITC.

In the above paragraphs the dealers claimed amount of ITC on purchases of goods at 12.5 per cent rate of tax against the correct applicable rate of 4 per cent which caused excess claim of ITC fraudulently by application of wrong rate of tax. Therefore, the dealers were liable to be imposed penalty under section 54 (1) 19.

Para no 4

In this paragraph, the dealer evades payment of tax by showing the Central sale as stock transfer to his branches and Claimed exemption of tax instead of paying tax amount. Therefore, he is liable to be imposed penalty under section 54(1)2.

Para no 6

In this paragraph, the dealer adjusted the paid amount of entry tax as ITC which is not permissible under section-13. Therefore, he is liable to be imposed penalty under section-54 (1) 19 due to false claim of I.T.C.

Para no 7

In this paragraph, the dealer sold goods to a registered dealer without issue of tax invoice and therefore, liable to be imposed penalty under section-54(1) 5.

Para no 8

The purchasing dealers, to whom the goods have been shown sold by the dealer in Annexure 'B' have not been found available on website of Commercial Tax Department with TIN & address, shown for these purchasing dealers. It shows that the tax invoices or sale invoices were issued without actual sale of goods, Therefore, the dealer is liable to be imposed penalty under section 54 (1) (11) (ii).

Para no 9

The dealer claimed amount of ITC for the purchases made from two firms. On verification, it was found that both the firms are not available on website of C.T. Department against the TIN shown in Annexure 'A'. It shows that the dealer claimed ITC falsely and therefore, liable to be imposed penalty under section 54(1) 19.

Para no 10

As per rule 24 (A), I.T.C. in respect of Capital goods shall be claimed in three successive annual instalments of equal amount. In this paragraph, the dealer earned I.T.C. on Capital goods and adjusted in the same assessment year. Due to wrong adjustment of I.T.C., The dealer is liable to be imposed penalty under section 54 (1) 19.

CHAPTER-13

Refund and adjustment

13.1 Refund and adjustment [section -40]

- (1) Where any amount has been deposited by a dealer or a person in any assessment year or has paid as input tax and any amount is refundable to such dealer or person from such assessment year, the refund under the Act shall be made after adjustment towards any amount outstanding against the dealer or the person concerned from the same or any other assessment year under the Act, under the Central Sales Tax Act, 1956 or under the Uttar Pradesh Trade Tax Act, 1948.
- (2) Where any amount is to be refunded to a dealer or a person hereinafter in this rule referred to as recipient), he will have to give name and address of local branch of any bank authorized to accept the tax, fee, penalty or any amount of the bank to the assessing authority within a period of 10 days from date on which refund becomes due:

Provided that where the recipient has already given name and address of local branch of a bank and his bank account number in such local branch of the bank to the assessing authority, it shall not be necessary to give such details again.

- (3) The assessing authority shall, before expiry of period of eighteen days from the date on which the refund has become due and after proper scrutiny of all relevant records and necessary verification, and after satisfying himself that the amount is refundable, submit copy of refund order passed by him in Form XXXIII to his Drawing and Disbursing Officer. The Drawing and Disbursing Officer, within five days from the date of receipt of copy of the order, after preparing a bill, send such bill to the Treasury Officer concerned for issuing crossed account payee cheque payable at the branch of State Bank of India or any other Bank conducting Treasury business:

Explanation :

For the purpose of this rule, the date on which refund has become due, shall be the date, following ;

- (a) on which order giving rise to refund has been passed by the assessing authority;
- (b) on which order giving rise to refund has been received in the office of the assessing authority where such order has been passed by any Court or other authority; and

13.2 Provisional refund [section -41]

- (1) Notwithstanding anything contained in section 40, in the case of a dealer, whose main business to sell goods in the course of the export of the goods out of the territory of India, the assessing authority, upon receiving the return for a tax period and application for prepositional refund along with the proof of export pending audit investigation to establish the correctness the claim and consequent assessment, shall, allow provisional refund of the excess amount of input tax credit for such tax period on account of sale in the course of the export of the goods out of the territory of India, within thirty days from the date of receipt of such application:

Provided that if any amount of tax, fee or penalty or any other amount either under this Act or under the Central Sales Tax Act, 1956 or under the erstwhile Act is due against such dealer the amount refundable first shall be adjusted towards such amount of tax or fee or penalty, as the case may be, and excess, if any, shall be refunded to the dealer:

Provided further that, before granting refund, the assessing authority may require the dealer to furnish security of amount equivalent amount or refund to its satisfaction where:-

- (a) the dealer has been involved in tax evasion under this Act or erstwhile Act or under the Central Sales Tax Act 1956; or
- (b) the dealer has obstructed or prevented the officers empowered under this Act in performing any of his functions of duties to him under this; or
- (c) the dealer has misused in any way the declaration or the certificate prescribed under this Act, or under the Central Sales Tax Act, 1956 or under the erstwhile Act or under the Uttar Pradesh Tax on the Entry of Goods into Local Areas Act, 2007;
- (d) The dealer is defaulter of the payment of tax on the sale or purchase of goods under this Act or under the Central Sales Tax Act, 1956 or under the erstwhile Act;
- (e) The dealer has violated any provision of this Act resulting in the loss of revenue.

Explanation:

For the purpose of this section, -

- (i) 'main business of export' in relation to a dealer shall mean the dealer whose aggregate of turnover of sales in the course of export of goods outside the territory of India under sub-section (1) and (3) of section 5 of the Central Sales Tax Act, 1956, for any tax period exceeds fifty per cent of the aggregate of turnover of sale of all goods-
 - (a) within the State;
 - (b) in the course of export of goods out of the territory of India; and
 - (c) in the course of inter-State trade or commerce.
 - (ii) Where any application is incomplete the date of completion of that application shall be deemed to be the date of application.
- (2) If, on assessment, the provisional refund granted under sub-section (1) is found to be in excess, then the excess amount of refund shall be recovered from the dealer along with interest at the rate of fifteen per cent per annum and for the period commencing on the date of provisional refund and ending with rebate of payment of the amount, as tax due from the dealer.
- (3) If the application is not in order or contains wrong particulars it shall be rejected by a speaking order in writing and the dealer shall be informed accordingly:
- Provided that no application shall be rejected without affording the dealer any opportunity of being heard.
- (4) Notwithstanding anything contained in the first proviso to sub-section (1) where any industrial unit has been declared sick by any competent court or authority constituted under any law for the time being in force, the provisional refund under this sections shall be allowed if such industrial unit satisfied that,-

13.3 Payment of interest on delayed refunds [Rule -51]

- (1) Where any amount is to be paid as interest on account of allowing refund after the prescribed period of refund, the assessing authority prepare order for payment of interest in Form XXXVI and shall, in the manner provided in sub - rule (3) of rule 50, send a copy of such order to the Drawing and Disbursing Officer. The

Drawing and Disbursing Officer shall, after preparing a bill of the amount mentioned in the copy of the order, send such bill to the Treasury Officer within five days from the date of receipt of copy of order from assessing authority. The Treasury Officer shall, within four days from the date of receipt of bill in his office, issue a crossed account payee cheque in the manner provided in rule 50.

- (2) Sub-rules (2) to (8) of Rule 50 shall mutatis mutandis apply to issue of order by assessing authority for payment of interest, sending of bill by Drawing and Disbursing Officer to Treasury Officer, issue of cheque and Advice to Bank and Drawing and Disbursing Officer by the Treasury conducting Officer transfer of amount by branch of State Bank of India or other bank conducting treasury business to the recipient's Bank and transfer of amount of interest by such Bank in the recipient's Bank Account, as theory apply to payment of amount of refund.
- (3) Amount of refunds allowed under rule 50 and amount of interest paid under this rule shall be paid from the receipt head of the tax receipt under the Act.

13.4 Treatment of industrial units availing exemption or reduction in the rate of tax under erstwhile Act [section -42]

- (1) No industrial unit,-
 - (a) availing benefit of exemption from or reduction in the rate of tax under the erstwhile Act or under the Central Sales Tax Act, 1956 on the turnover of sales or purchase or both as the case may be, before the commencement of this Act; or
 - (b) which is granted the benefit of exemption from or reduction in the rate of tax on the turnover of sales or purchases or both as the case may be, under the erstwhile Act or under the Central Sales Tax Act, 1956; shall be permitted to avail the benefit of exemption from, or reduction in the rate of, tax on the turnover sale or purchase or both as the case may be, on or after the commencement of this Act.
- (2) The industrial unit availing the benefit of tax deferment under the erstwhile Act or under the Central Sales Tax Act, 1956 before the commencement of this Act or a unit which is granted facility of tax deferment under the erstwhile Act or under the Central Sales Tax Act, 1956 shall continue to avail the facility of deferment of net tax payable under this Act and the Central Sales Tax Act, 1956 subject to such conditions and restriction as may be prescribed.

13.5 Procedure for disbursement of amount wrongly realized by dealers as tax [section -43]

- (1) Where any amount has been realized from any person by any dealer, purporting to do so by way of realization of tax on the sale or purchase of goods, in contravention provisions of sections 22 and 23, such dealer shall, subject to provisions of sub-section (14) of section 21, deposit the entire amount so realized in the manner and within the period prescribed under section 24.
- (2) Any amount deposited by any dealer under sub-section (1) shall to the extent it is not due as tax, be held by the State Government in trust for the person on whom such liability has been passed ultimately in respect of goods on the sale or purchase whereof such excess amount has been charged.
- (3) Where any amount is deposited by any dealer under sub-section (1) such amount or any part thereof shall on a claim being made in that behalf be refunded in such manner as may be prescribed to the person on whom liability of such amount has been passed ultimately:

- (4) Where any amount has been deposited by any dealer in accordance with provisions under sub-section (1), the dealer shall, subject to provisions of sub-section (14) of section 21 not be entitled to allow refund of such amount to the purchaser of goods.

Explanation:

The expression "Final order on appeal, revision or reference" occludes an order passed by the High Court or by the Supreme Court.

CHAPTER-14

Tax Audit, Inspection, search and seizure

14.1 Tax Audit [section-44]

- (1) For the purpose of examining the correctness of tax return or returns filed by a dealer or class of dealers and to verify admissibility of various claims including claim of input tax credit made by a dealer or class of dealers, tax audit shall be made of such number of dealers as any may be prescribed.
- (2) Any officer, not below the rank of an assessing authority, appointed by the State Government or the Commissioner and posted in the audit wing of the department administering this Act or any other officer authorized by the Commissioner in this behalf may, undertake tax audit of the records, stock in trade and the related documents of the dealers, who are specified or selected in the manner prescribed under sub-section (1):

Provided that no audit shall be undertaken for any assessment year after expiry of a period of three years after the end of such assessment year:

Provided further that where the officer making audit in respect of any assessment year is satisfied that the dealer has wilfully suppressed any material fact leading to evasion of tax or has wrongly claimed any benefit, he may make audit for three consecutive assessment years prior to the assessment year in which audit is being conducted.

- (3) For the purpose of the tax audit, officer referred to in sub-section (1) may require the dealer to produce before him records and other documents in his office:

Provided that where it is convenient, the officer may take up tax audit in the office, business premises or warehouse of the dealer.

- (4) After completion of the tax audit, the officer making the audit shall send audit report prepared by him to the assessing authority of the dealer.

14.2 Power to order production of accounts, documents and power of entry, inspection, search and seizure [section-45]

- (1) Any officer empowered by the State Government in this behalf (hereinafter in this section referred to as the authorized officer), may for the purposes of this Act, require any dealer to produce before him any book, document or account relating to his business and may inspect, examine and copy the same and make such enquiries from the dealer as may be necessary:

Provided that books, accounts and documents of a period more than five years prior to the assessment year shall not be so required, unless in any special case, for reasons to be recorded, such officer considers it necessary.

- (2) The authorized officer may, at all reasonable times, enter and search any place of business or vehicle, vessel or other building or place where he has reason to believe that the dealer keeps or is for the time being keeping any books, register, document, account or goods relating to his business:

Provided that no residential accommodation (not being a place of business cum residence) shall be entered into, inspected or searched by such officer unless specially authorized in this behalf by the Commissioner in writing.

- (3) All books, documents, and accounts maintained by dealer in the ordinary course of business, the goods in his possession and his place of business, vessel or vehicle shall be open to search and inspection at all reasonable times by the authorized officer.
- (4) If the authorised officer while examining any books, accounts or documents or conducting search or inspection has reason to believe that any dealer is trying to evade liability of payment of tax or other dues under this Act and that anything necessary for the purpose of an investigation into his liability may be found in any account, register or document, he may seize such account, register or document as may be necessary.
- (5) The officer seizing any account, register or other document under that sub-section may, for reasons to be recorded by him in writing and with the prior approval of the Commissioner, retain such account, register or document for such period not extending beyond thirty days from the date of completion of all the proceedings under this Act in respect of the year for which they are relevant, as he deems necessary.
- (6) The authorized officer who has made inspection, search or seizure of any books, accounts or documents or has investigated into the liability of tax of a dealer shall, on the basis of facts found and enquiry made, prepare a report in respect of such inspection, search, seizure or investigation and where the officer preparing the report is an officer different from the assessing authority, he shall forward a copy of such report to the assessing authority of the dealer.
- (7) Where the officer preparing the report referred to in sub-section (6) is of the opinion that liability of payment of tax by the dealer in addition to liability of payment of tax admitted by such dealer may exceed rupees one lakh, he shall, before forwarding copy of report referred to in sub-section (6), serve the dealer with a notice stating facts to show cause why adverse inference should not be drawn on the basis of such facts. The dealer on receipt of such notice shall submit his reply to such officer in two copies. Thereafter the officer shall forward to the assessing authority a copy of report, a copy of show cause notice issued and a copy of reply received from the dealer, if submitted by the dealer, along with its comments on the reply submitted by the dealer.

APPENDIX-1

कमिश्नर वाणिज्य कर, उत्तर प्रदेश द्वारा वैट अधिनियम की धारा-59 के अन्तर्गत पारित आदेशों की विवरण सूची।

क्र. सं.	विषय	आरोपणीय वैट दर	निर्णय का दिनांक
1.	काँच का ग्लास, काँच की प्याली तथा काँच की प्लेट पर कर देयता		
2.	काँच की चूड़ी के उत्पादन में प्राकृतिक गैस पर कर देयता	12.5%	24 जनवरी, 2008
3.	उत्तर प्रदेश राज्य खाद्य एवं आवश्यक वस्तु निगम द्वारा क्रय किया गया गेहूँ, चावल सार्वजनिक विवरण प्रणाली के अन्तर्गत आता है? तथा की दुकानों पर निर्गत चीनी पर करदेयता	20%	24 जनवरी, 2008
4.	तांबे और पीतल से बनाया गया श्री यन्त्र किस श्रेणी में – व्यापार कर अधिनियम के अन्तर्गत इस पर करदेयता	4%	4 फरवरी, 2008
5.	कागज से बने लिफाफों पर करदेयता	12.5%	4 फरवरी, 2008
6.	लोहा के तारे से बनी जाली की श्रेणी पर कर की दर – तार से बनी जाली हार्डवेयर की श्रेणी पर करदेयता	4%	4 फरवरी, 2008
7.	महुआ फूल की श्रेणी क्या? इस पर करदेयता	4%	12 फरवरी, 2008
8.	टोनर एवं कार्टेज पर करदेयता	12.5%	12 फरवरी, 2008
9.	कागज से निर्मित लिफाफों पर करदेयता	4%	13 फरवरी, 2008
10.	फेरस व नरस मेटल से निर्मित तारों पर करदेयता	4%	13 फरवरी, 2008
11.	डीजल इंजन से चलने वाले पम्पिंग सेट्स तथा किरोसीन पम्पिंग सेट्स की करदेयता	4%	14 फरवरी, 2008
12.	प्लास्टिक रस्सी एवं प्लास्टिक सुतली पर करदेयता	4%	18 फरवरी, 2008
13.	पोलीयूरीथन/पोलीइथीलीन फोम चढ़े हुये टेक्सटाइल फैब्रिक्स पर करदेयता	4%	20 फरवरी, 2008
14.	एल्यूमिनियम शीट व एल्यूमिनियम सर्किल पर करदेयता	12.5%	20 फरवरी, 2008
15.	काटन बैन्डेज (रुई की पट्टी) पर करदेयता	4%	20 फरवरी, 2008
16.	एल्यूमिनियम सीट व एल्यूमिनियम सर्किल पर करदेयता	12.5%	20 फरवरी, 2008
17.	रोयेंदार तौलिया, बिना रोयेंदार तौलिया, गमछा एवं लुंगी पर करदेयता	4%	24 फरवरी, 2008
18.	स्टेनलेस स्टील बिलेट, प्लैट, वायर राड, राउण्ड आयरन स्टीम पर करदेयता	4%	25 फरवरी, 2008
19.	मीठी सुपारी पर करदेयता	12.5%	25 फरवरी, 2008
20.	बल्ली/टिम्बर पर करदेयता	12.5%	25 फरवरी, 2008
21.	एक्सरे फिल्म पर करदेयता	12.5%	25 फरवरी, 2008
22.	आइसक्रीम पर करदेयता	12.5%	26 फरवरी, 2008
23.	हाई कैल्शियम फास्फेट पर करदेयता	4%	26 फरवरी, 2008

24.	गेहूँ के दलिये पर करदेयता	4%	26 फरवरी, 2008
25.	डीजल जनरेटिंग सेट पर करदेयता	4%	26 फरवरी, 2008
26.	फोटो एल्बम पर करदेयता	12.5%	26 फरवरी, 2008
27.	कंकरीट पोल्स पर करदेयता	4%	27 फरवरी, 2008
28.	विभिन्न वस्तुओं में प्रयोग होने वाली बैटरी पर करदेयता	12.5%	28 फरवरी, 2008
29.	रंगीन फोटोग्राफिक पेपर पर करदेयता	4%	28 फरवरी, 2008
30.	इमली और मखाने पर करदेयता	4%	29 फरवरी, 2008
31.	हस्त निर्मित वाद्य यंत्रों जैसे सितार, तानपुरा, सारंगी, हारमोनियम, तबला, बांसुरी, शहनाई, बीन, भंगडा, ढोल, नाल, ढोलक, पी.टी. ढोल, बीन, बाजा, कांगो, बागो, बिगुल, ढपली, झुनझुना, त्रिभुज, मलझरी, नरसिम्हा, काली शहनाई, पीतल का सूरजमुखी, वाइलन, गिटार, इकतारा, चमेली, ट्रम्पट बिगुल, कारनेट, डमरूबीन, खड़ताल, झीका, तम्बूर, घुंघरू आदि पर करदेयता	12.5%	29 फरवरी, 2008
32.	जिप्सम बोर्ड पर करदेयता	12.5%	29 फरवरी, 2008
33.	ठन लाइन कनेक्टर एण्ड केबल टर्मिनल पर करदेयता	4%	29 फरवरी, 2008
34.	अलमोनियम शीट एवं एल्युमिनियम सर्किल पर करदेयता	12.5%	29 फरवरी, 2008
35.	एयर ब्रेक होज, कपलिंग फार ब्रेक पाइप, एयर ब्रेक होज कपलिंग फार फिड पाइप तथा फ्लेक्सबज होज की करदेयता	4%	29 फरवरी, 2008
36.	पिक्टोरियल बुक्स एवं विजुअल ऐड बुक्स पर करदेयता	कर मुक्त	29 फरवरी, 2008
37.	मिनरल स्टोन ग्रीट पर करदेयता	4%	29 फरवरी, 2008
38.	निराकरण हेतु प्रश्न - खण्डा, बोल्टर पर करदेयता	12.5%	29 फरवरी, 2008
39.	इलेक्ट्रानिक गैस लाइटर्स, नान स्टिक किचेन वेयर्स, फिल्टर्स, फिल्टर्सकैन्डल्स, नाइफ कल्टरी, नान इलेक्ट्रिकल किचेन टूल्स, थर्मो स्टेनलेसस्टील वैकुम फ्लास्क, वैकुम फ्लास्क सहित ग्लास रिफिल, इन्सुलेटेड थर्मो वेयर्स (स्कूल बाटल्स, वाटर जग्स, कैसिरोलेस, टिफिन्स) नान इन्सुलेटेड प्लास्टिक आइटम्स लाइक स्टूल, वेस्ट बिन्जार्स, पेट बाटल्स एण्ड जार्स, जार, पैट बाटल, वेस्ट बिन, स्कूल टिफिन आदि करदेयता	12.5%	29 फरवरी, 2008
40.	टी. वी. कैबिनेट और टी. वी. पिक्चर ट्यूब (बी/डब्लू तथा रंगीन) पर करदेयता	4%	29 फरवरी, 2008
41.	पुरानी मोटर वाहन पर करदेयता	4%	5 मार्च, 2008
42.	थीनर पर करदेयता	4%	5 मार्च, 2008
43.	सी.डी. प्लेयर/डी.वी.डी. प्लेयर पर करदेयता	12.5%	5 मार्च, 2008
44.	टेस्टिंग इक्विपमेंट मशीनरी (गोल्ड, डाइज, कम्पोनेट, स्पेयर पार्ट्स व एसेसरीज) पर करदेयता	4%	5 मार्च, 2008
45.	कम्लान पर करदेयता	12.5%	5 मार्च, 2008
46.	राइस फ्लेक पर करदेयता	12.5%	5 मार्च, 2008

47.	डीजल इंजन पर करदेयता		
48.	डिस्पोजेबल सिरेन्जेस, डिस्पोजेबल नोडिल्स, आई. वी. कन्यूला, स्कैल्लप वैन सेट, सर्जिकल ब्लेड, ब्लेड कलेक्शन, ट्यूब आदि पर करदेयता	4%	5 मार्च, 2008
49.	अर्थ मूक्स एण्ड देअर कम्पोनेन्ट्स पार्ट्स, एसेसरीज पर करदेयता	4%	10 मार्च, 2008
50.	गैम्बियर पर करदेयता	12.5%	10 मार्च, 2008
51.	स्टेपलर, स्टेपल पिन, पंच मशीन, स्टेन्सिल करेक्टिंग प्लड, स्टिपल रिमूवर—सिजर आदि पर टैक्स करदेयता	12.5%	10 मार्च, 2008
52.	अपंजीकृत व्यापारियों से हस्त निर्मित ऊलेन कालीन खरीद कर निर्यातक को की गयी बिक्री पर करदेयता	12.5%	10 मार्च, 2008
53.	निष्प्रयोज्य वाहनों की बिक्री पर करदेयता	4%	12 मार्च, 2008
54.	प्रेशर कुकर के पार्ट्स, स्टेनलेस स्टील वाटर फिल्टर कैटिण्डल पर करदेयता	12.5%	12 मार्च, 2008
55.	लोहे की ग्रिल पर करदेयता	12.5%	12 मार्च, 2008
56.	व्यापारी द्वारा पी. डब्लू. डी. के विद्युत अनुरक्षण खण्डों में विद्युत सामान की बिक्री/सप्लाई का कार्य किया जाता है। सप्लाई के अलावा व्यापारी के द्वारा विद्युत उपकरण/सामान को लगाये जाने का कार्य किया जाता है तथा दोनों कार्यों के लिये अलग-अलग बिल जारी किया जाता है। व्यापारी ने इस प्रकार की बिक्री के लिये समाधान योजना की अनुमन्यता जानना चाहा है।	सप्लाई पर समाधान योजना का लाभ मिल सकता है	12 मार्च, 2008
57.	प्लास्टिक के कांटे एवं चम्मच पर करदेयता	4%	12 मार्च, 2008
58.	वर्क्स कान्ट्रैक्ट; विशेषतया, सड़क निर्माण व मरम्मत तथा हाट मिक्स प्लान्ट में प्रयुक्त होने वाले 'डीजल आयल' की खरीद पर फार्म 'डी' की अनुमन्यता को विनिर्णीत किये जाने हेतु अनुरोध किया है।	सुविधा अनुबन्ध नहीं हैं	12 मार्च, 2008
59.	प्रेशर कुकर के पार्ट्स, स्टेनलेस स्टील वाटर फिटर, व वाटर फिल्टर कैण्डिल पर करदेयता	12.5%	12 मार्च, 2008
60.	एल्यूमिनियम केबल स्क्रेप आफ एसोर्टेड साइज पर करदेयता	12.5%	13 मार्च, 2008
61.	जनरेटर द्वारा विद्युत आपूर्ति पर करदेयता	4%	13 मार्च, 2008
62.	"Fly Ash Bricks, Blocks, Pavers पर करदेयता	12.5%	17 मार्च, 2008
63.	ट्रान्सफार्मर पार्ट्स पर करदेयता	12.5%	17 मार्च, 2008
64.	लोहे के चादर से बनी जातियों पर करदेयता	4%	17 मार्च, 2008
65.	रिप्लेक्टिव साइन बोर्ड, स्ट्रक्चर एण्ड अदर रिप्लेक्टिव प्रोडक्ट्स पर कर देयता	12.5%	17 मार्च, 2008
66.	रेलवे मुख्यालय द्वारा नीलाम की जाने वाली बैटरियाँ एवं अन्य निष्प्रयोज्य सामान, पर करदेयता	4%	17 मार्च, 2008
67.	सीमेंट कंक्रीट टाइल्स/पर करदेयता	12.5%	24 मार्च, 2008
68.	कास्ट आयरन कास्टिंग पर करदेयता	4%	24 मार्च, 2008
69.	प्लेइंग कार्ड्स पर करदेयता	4%	28 मार्च, 2008

70.	एक्सपेरीमेंटल एनीमल केज (पशु परीक्षण पिंजरा) पर करदेयता	12.5%	28 मार्च, 2008
71.	पेपर ट्यूब्स, पेपर कोर, पेपर एंगल बोर्ड (एज प्रोटेक्टर) पेपर कन्टेनर चलान पर करदेयता	12.5%	2 अप्रैल, 2008
72.	रबर से बने मशीनरी स्पेयर पार्ट्स पर करदेयता	4%	2 अप्रैल, 2008
73.	फुट ऑयल (रेसीड्यू वैक्स) पर प्रवेश की कर की देयता आकर्षित होती है अथवा नहीं, आदि प्रवेश कर की देयता बनती है तो ऐसी देयता किस विज्ञप्ति के अन्तर्गत बनती है।	4%	2 अप्रैल, 2008
74.	नील पर करदेयता	4%	4 अप्रैल, 2008
75.	(1) राइटिंग इन्स्ट्रुमेंट जैसे कि पेन के बैरल, कैप, स्टापर आदि। (2) खिलौने के प्लास्टिक पार्ट्स (3) टी.वी. के प्लास्टिक पार्ट्स। (4) वाटर पियूरीफिकेशन डिवाइस के वाटर फिल्टर्स (5) मेडिकल इक्वूपमेटर के प्लास्टिक पार्ट्स पर करदेयता	12.5%	15 अप्रैल, 2008
76.	हस्त निर्मित दफती तथा गत्ता पर करदेयता	12.5%	15 अप्रैल, 2008
77.	कैश बुक, लेजर, डे-बुक, डुप्लीकेट बुक, पैड रजिस्टर, ग्रीटिंग एवइनविटेशन कार्ड, आदि पर करदेयता	4%	15 अप्रैल, 2008
78.	ग्लास ट्यूब आफ आई.पी. ग्रेड पर करदेयता	12.5%	15 अप्रैल, 2008
79.	आइसक्रीम पर करदेयता	12.5%	15 अप्रैल, 2008
80.	गोल्ड, सिल्वर तथा अन्य बहुमूल्य मेटल से भिन्न मेटल से बनी कृत्रिम ज्वेलरी (आभूषण) पर करदेयता	12.5%	16 अप्रैल, 2008
81.	एम.डी.एफ. बोर्ड पर करदेयता	12.5%	27 मई, 2008
82.	(1) Woolen Blanket made from a bland of wool and polysrers/ polymade etc. (2) Cotton mattress Fabricated in cover of cotton Clothes. (3) Polyester mosquito bed nets made from knitted polyester net.	12.5%	27 मई, 2008
83.	ऊन, पालिस्टर एवं पोली में 5 कम्बल, सूती गद्दा जो सूती कवर के अन्दर हो बुनी हुयी पॉलिस्टर से बनी पालिस्टर की मच्छरदानियों पर करदेयता	12.5%	27 मई, 2008
84.	(अ) संगमरमर, पीतल की भगवान जी की मूर्तियाँ, (ब) ताँबे की भगवान जी की मूर्तियाँ, कलवा कुशासन, चट्टी, रेहत, आचमनी लकड़ी अन्य पूजा सामग्रियाँ, (स) लकड़ी की बनी खड़ाऊ, धार्मिक पुस्तकें व पीतल/ताँबे की बनी आचमनी आदि पर करदेयता	12.5%	27 मई, 2008
85.	बक्लस पर करदेयता	4%	30 मई, 2008
86.	हास्पिटल फर्नीचर जिसमें बेड साइड, लाकर, बेड साइड स्टूल, हास्पिटल बेड साइड स्क्रीन, रिवाल्विंग स्टुल, फुट स्टाप, पाउलर बेड, पर करदेयता	12.5%	30 मई, 2008
87.	जली हुई हड्डी पर कर देयता	12.5%	30 मई, 2008
88.	पेट्रोल, मिट्टी, का तेल, एल. पी. जी. चलित जनरेटर सेट व पोर्टेबुल इंजन पर करदेयता	4%	30 मई, 2008
89.	जूते के फार्मे (शुलास्ट) पर करदेयता	4%	3 जून, 2008

90	विभिन्न नेचुरल/हर्बल एसेन्सियल आयल के मिश्रण से निर्मित कम्पाउड पर करदेयता	12.5%	3 जून, 2008
91	रेलवे से क्रय किये गये निष्प्रयोज्य उडन स्लीपर पर करदेयता	12.5%	3 जून, 2008
92	Polythylene sheets पर करदेयता	12.5%	10 जून, 2008
93	ग्लास ट्यूब की करदेयता	12.5%	10 जून, 2008
94	सिन्थेटिक शू लाइनिंग, सिन्थेटिक शू लाइनिंग पी.यू., नायलान कम्बरेला पर करदेयता	4%	10 जून, 2008
95	PRECURED TREAD RUBBER जिसे COLD RUBBER भी कहा जाता है पर कर की दर क्या होगी ?	4%	10 जून, 2008
96	डी.वी.डी. प्लेयर व गैलवेनाइन्ड पोल्स (यूज्ड फार लाइटिंग कर कर कला दर क्या होगी ?	12.5%	10 जून, 2008
97	डीजल जनरेटिंग सेट, एसी जनरेटर्स, डीजल इंजन, केरोसिन चलित इंजन डीजल इंजन चलित पम्प सेट, केरोसिन चलित पम्प सेट पर करदेयता	4%	10 जून, 2008
98	इसैन्शियल आयल्य व मेन्था आयल के एच. एस.एन. कोड व इसैन्शियल आयल्य पर कर की दर क्या होगी ?	12.5%	10 जून, 2008
99	डी.वी.डी. प्लेयर पर करदेयता	12.5%	10 जून, 2008
100	PRECURED TREAD RUBBER जिसे COLD RUBBER भी कहा जाता है पर कर की दर क्या होगी ?	4%	10 जून, 2008
101	पेपर से सम्बन्धित लिफाफा, राइटिंग पैड, मेमो पैड, आफिस फाइल, बाक्स फाइल पर कर की देयता	12.5%	13 जून, 2008
102	वेट्स व मेजरमेन्ट्स पर करदेयता	12.5%	13 जून, 2008
103	D.C.P. [Di-CALCUM PHOSPHATES M.B.M. (MEAT CUM BONE MEAL पर करदेयता	4%	13 जून, 2008
104	पुराने आयरन एंगल, गटर, चैनल पर करदेयता	4%	13 जून, 2008
105	रिकार्डेड सीडी, वी.सी.डी., डी.वी.डी. व एम.पी.-3 प्लेयर पर करदेयता	12.5%	13 जून, 2008
106	टोनर्स एण्ड डेवपलर्स पर कर देयता	12.5%	13 जून, 2008
107	बैटरी चलित वैहकिल्स पर करदेयता	12.5%	25 जून, 2008
108	बोल्डर पत्थर को तोड़कर और पीस कर प्राप्त होने वाले गिट्टी, डस्ट, क्रेसर पर करदेयता	12.5%	25 जून, 2008
109	Lubricating base oil and light liquid parafine ip grade पर करदेयता	12.5%	25 जून, 2008
110	रीबन पर करदेयता	4%	25 जून, 2008
111	कपड़ा, कालर लाइनिंग या काटन बेल्टिंग या काटन शीटिंग या टावल या टेरी टावल कालर लाइनिंग या बकरम काटन फैब्रिक पर करदेयता	4%	25 जून, 2008
112	हाथ से कपड़े सिलने में प्रयोग की जाने वाली सुई पर करदेयता	12.5%	25 जून, 2008
113	प्लास्टिक वटर स्टोरेज टैंक पर करदेयता	12.5%	25 जून, 2008

		12.5%	25 जून, 2008
114	पेपर कोन एवं पेपर ट्यूब पर करदेयता	12.5%	25 जून, 2008
115	अपंजीकृत आकृतियों के माध्यम से किसानों से चिलबिल, नीम, पीपल, बरगद, हालदू, बाबूल की लकड़ी की खरीद पर करदेयता	4%	25 जून, 2008
116	पुराने रोलर की बिक्री पर करदेयता	12.5%	25 जून, 2008
117	फोम की बैंक व सीट (बसों-थी व्हीलर हेतु) गद्दे, सीट्स इण्डस्ट्रियल इस्तेमाल हेतु करदेयता	4%	30 जून, 2008
118	फ्रैबिक्स रूग्स, शाल, लोई पर करदेयता	12.5%	30 जून, 2008
119	सी.आई. जक्शन बॉक्स पर करदेयता	12.5%	30 जून, 2008
120	ब्लाक ग्लास पर करदेयता	4%	30 जून, 2008
121	निष्प्रयोज्य पुरानी बैटरीज पर करदेयता	12.5%	30 जून, 2008
122	विनेगर पर करदेयता	12.5%	30 जून, 2008
123	लेदर बोर्ड पर करदेयता	12.5%	30 जून, 2008
124	कत्तल गिट्टी पर करदेयता	12.5%	30 जून, 2008
125	मकई कचरी पर करदेयता	12.5%	30 जून, 2008
126	मल्टीमिडिया, प्रोजेक्टर, कम्प्यूटर इंक, वोल्टेज स्टेबलाइजर पर करदेयता	4%	30 जून, 2008
127	गत्ता/दफती पर करदेयता	12.5%	30 जून, 2008
128	Bitumen Emulsion पर करदेयता	4%	30 जून, 2008
129	स्टोन बैलास्ट, स्टोन ग्रेट, स्टोन सिगिल, आदि पर करदेयता	4%	30 जून, 2008
130	Tread Rubber पर करदेयता	4%	30 जून, 2008
131	आयरन स्टील से निर्मित स्टील ट्रक पर करदेयता	12.5%	30 जून, 2008
132	कुशन गम पर करदेयता	12.5%	30 जून, 2008
133	अदर आर्टिल्स आफ प्लास्टिक पर करदेयता	12.5%	30 जून, 2008
134	शर्बत एवं ठन्डाई पर करदेयता	4%	8 जुलाई, 2008
135	रूमाल पर करदेयता	12.5%	8 जुलाई, 2008
136	मिल बोर्ड पर करदेयता	4%	8 जुलाई, 2008
137	क्लाथ कटिंग, बकरम कटिंग, कागज कटिंग, दरी कटिंग, कारपेट कटिंग, हौजरी कटिंग, सेलवेस कटिंग, साइज-अनुसाइज कटिंग, धागा कटिंग, टावल कटिंग पर करदेयता	12.5%	8 जुलाई, 2008
138	टेनरी वेस्ट (बबूल छाल), मूंगफली के छिलके, फ्यूज जड़ी बूटी गन्ने की खाई (बगास) पर करदेयता	12.5%	8 जुलाई, 2008
139	Clinical Diapers पर करदेयता	12.5%	8 जुलाई, 2008
140	ट्रान्सफार्मर की मरम्मत अथवा ट्रान्सफार्मर को नये ढंग से बनाने पर कर की देयता	12.5%	8 जुलाई, 2008
141	चुनाव स्टोन, कोटा स्टोन, मार्बल, ग्रेनाइट, रेडी मिक्स कंकरीट पर करदेयता	12.5%	8 जुलाई, 2008

142	(1) Poly Uraehanc in primary Form (2) Other Organic Compound पर करदेयता		
143	फाइबर शीट्स व इम्ब्रेसिव पर करदेयता	4%	18 जुलाई, 2008
144	Other Organic Compound पर करदेयता	12.5%	18 जुलाई, 2008
145	भार मापक मशीन करदेयता	4%	18 जुलाई, 2008
146	सीमेन्ट कंकरीट टाइल्स/ब्रिक्स पर करदेयता	4%	18 जुलाई, 2008
147	वैट अनुसूची में वस्तु की वस्तु का वर्गीकरण - उत्तर प्रदेश मूल्य सर्वर्धित कर अधिनियम, 2008 की धारा-59 में पूछा गया प्रश्न - एल्यूमिनियम कम्पोजिट पैनल पर करदेयता	12.5%	18 जुलाई, 2008
148	टेन्ट स्लीपिंग बैक्स पर करदेयता	4%	24 सितम्बर, 2008
149	Sleeping bags , Tent & Tarpulins पर करदेयता	12.5%	24 सितम्बर, 2008
150	लेदर बैलों पर करदेयता	12.5%	11 नवम्बर, 2008
151	कपड़ा धोने वाले ब्रूश के लकड़ी के हैंडिल पर करदेयता	4%	25 नवम्बर, 2008
152	रेलवे ट्रैक मशीन पार्ट्स पर कर देयता	12.5%	2 दिसम्बर, 2008
153	Our query in this respect is, whether the sale of seeds of oilseeds are exempt from tax or not ? पर करदेयता	12.5%	5 दिसम्बर, 2008
154	फिनायल तथा फ्लोर क्लीनर की बिक्री पर करदेयता	4%	5 दिसम्बर, 2008
155	Duplx Board, Mill Board and Grey board Board पर करदेयता	12.5%	5 दिसम्बर, 2008
156	पैकिंग मैटेरियल पर करदेयता	12.5%	23 दिसम्बर, 2008
157	लोहे के तार से बनी जाली पर करदेयता	12.5%	23 दिसम्बर, 2008
158	Complete blinds पर करदेयता	4%	23 दिसम्बर, 2008
159	फर्श पर घिसने वाली बट्टियों पर कर देयता	12.5%	23 दिसम्बर, 2008
160	पावर लूम से बने ऊनी कम्बल एवं पावर लूम से बने सूती दरियाँ पर करदेयता	12.5%	10 फरवरी, 2008
161	Folding ,shuttering framework का निर्माण एवं बिक्री का कार्य करते हैं यह इक्यूपमेन्ट है अतः करदेयता	12.5%	10 फरवरी, 2008
162	जी.आई. पाइप तथा फिटिंग्स पर दिनांक 30.9.2008 के पश्चात् करदेयता	4%	10 फरवरी, 2008
163	Electronic weighing scale पर करदेयता	12.5%	10 फरवरी, 2008
164	सीमेंट से निर्माण की गयी ईटों (इन्टरलॉक पेवर्स)	12.5%	10 फरवरी, 2008
165	साधारण छाते के पाटर्स पर करदेयता	12.5%	10 फरवरी, 2008
166	हैण्डलूम, कम्बल पर करदेयता	12.5%	10 फरवरी, 2008
167	चावल, ज्वार, बाजार, मक्का के आटे पर करदेयता	12.5%	20 मार्च, 2008
168	What is the rate of tax payable in respect of the frozen deserts (ice cream) पर करदेयता	4%	20 मार्च, 2008

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169	(1) Diesel, Generator, Lubricating units, Electric Drill Machine Painting spray Gum (2) Hand Trolley/Trolley of Two Wheel or four wheel conopy	12.5% 12.5%	20 मार्च, 2008 29.9.2008
170	(I) Impact portable Drill Electric operated ; (II) Die Grinder portable Electric operated ; (iii) portable Angle Grinder Electric operated; (iv) portable marble cotter electric operated ; (v) portable chop saw electric operated; (vi) Hand operated chain pully Block (used in repair & lifting) पर करदेयता	12.5%	29.9.2008
171	कम्प्यूटर व उसके peripherals मानीटर पर करदेयता	4%	20 मार्च, 2008
172	बैटरी चार्जर पर करदेयता	12.5%	20 मार्च, 2008
173	Corrugated Box, Corrugated Sheet or Corrugated Board पर करदेयता	4%	8 सितम्बर, 2008

APPENDIX-2

Chart showing the particulars of the Forms and the Dates of submission thereof under Uttar Pradesh Value Added Tax Law:

Sl. No.	Relevant VAT Rule	Form No UP VAT	Brief description	To be furnished by	To be furnished to	By the date or period ending
1	Rules 12(2)/12 (4)	I	Challan	Dealer	Bank/ Treasury	After depositing any amount
2	Rule 14(3)	III	Verification of receipt of tax etc.	Assessing Authority	Treasury Sub-Treasury	In the first week of every month
3	Rule 16(1)	IV	Information regarding discontinuation of business	Dealer	Assessing Authority	Within 30 days of discontinuation of business
4	Rule 17(1)	V	Certificate in respect of sale of VAT goods	Selling Agent	Principal	For the Tax Period
5	Rule 17(2)	VI	Certificate in respect of purchase of VAT goods	Purchasing Agent	Principal	For the Tax Period
6	Rule 32(1)/32 (2)	VII	Application for registration casual traders	Dealer	Registering Authority	Within 30 days from the date on which the dealer becomes liable to pay tax [section 17(2)] or if late, the late fee
7	Rule 32-A	VII-A	Application for registration of casual traders	Dealer	Registering Authority	As per rule 32-A
8	Rule 32(1)/32 (2)	VII-G	Application for registration by Govt. Deptt.	Govt. Deptt. Concerned	Registering Authority	Within 30 days from the date on which the department becomes liable to pay tax [section 17(2)] or if late, the late fee.
9	Rule 32(3)	VIII	Application for validity of registration certificate and issue of fresh form of registration	Dealer	Registering Authority	Within 60 days from 1.1.2008
10	Rule 32(4)	IX	Application about tendering voluntary consent for retention of registration certificate granted under Trade Tax Lax)	Dealer	Registering Authority	Within 30 days from 1.1.2008
11	Rule 32(5)	X	Application about tendering voluntary consent for retention of registration certificate granted under Trade Tax Lax	Dealer to whom registration certificate under the Trade Tax Law is issued after 1.1.2008	Registering Authority	Within 30 days from the date of issue of registration certificate

12	Rule 32(10)	XI	Certificate of Registration and allotment of T.I.N	Registering Authority	Dealer	After order for grant of registration
13	Rule 32-A	XI-A	Certificate of Registration and allotment of T.I.N. for casual traders	Registering Authority	Dealer	As Per rule 32-A
14	Rule 33(1)	XII	Information about change of business	Dealer	Registering Authority	Within 30 days of the occurrence of event (Section 75)
15	Rule 37(3)	XIII	Undertaking from surety for treating security furnished under Trade Tax Law valid under VAT Law)	Surety	Registering Authority assessing Authority	As and when required or within 30 days from 1.12.2008 section 81(5)
16	Rule 38(1)	XIV	Application for registration of Transporter, Carrier, Forwarding agent, Rlu. Container contractor, Owner or Person I/C of godown, cold storage of warehouse	Transporter/ forwarding agent/ Rly. container contractor/Owner of person I/C of godown, cold storage of warehouse	Registering Authority	Within 30 days from 1.1.2008 (if business is old) or within 30 days from the commencement of business.
17	Rule 38(2)	XV	Information by Transporter, Carrier or Forwarding agent about registration under the Carriage by Road Act, 2007	Transporter /carrier forwarding agent	Registering Authority	Within 30 days from 1.1.2008
18	Rule 38(38(5)/38(6)	XVI	Certificate of registration for Transporter/ Carrier etc	Registering Authority	Transporter/Carrier etc.	After grant of registration
19	Rule 38 (8)(a)	XVII	Declaration by consignee to be obtained by transporter, carrier etc.	Person transporting the goods	Transporter/ Carrier etc.	While delivering the goods for transport
20	Rule 38(8)(b)	XVIII	Declaration by consignor to be obtained by transporter/ carrier etc	Person to whom the goods are delivered	Transporter/Carrier etc.	While receiving the goods
21	Rule 38(8)(b)	XVIII	Declaration by consignor to be obtained by transporter/ carrier etc	Person to whom the goods are delivered	Transporter/Carrier etc.	While receiving the goods
22	Rule 38(8) (b)	XX	Declaration by the person who receives goods for godown, cold storage or warehouse	Owner of the goods	Person I/C of godown, or cold storage or warehouse	While receiving the goods back

23	Rule 40(1)	XXI	Transport Memo	Assessing Authority (b) Dealer	Dealer purchase Consignee consignee	On demand While consigning or delivering Specified goods
24	Rule 42	XXIII	Audit Report by Specified Authority	Dealer	Assessing Authority	Along with Annual Return
25	Rule 45(1)45(2)	XXIV	Return of Tax Period	Dealer	Assessing Authority	By 20 th date of the following month: (i) In case of aggregate of turnover in the assessment year is likely to exceed ₹ 25 lakh, but not exceeding ₹ One Crore-For every Quarter ending on 30 th June, 30 th September, 31 st December and 31 st March. (ii) In case of assessment year exceeding ₹ One Crore, -For every calendar month. In cases of discontinuance of business, the provisions of Rules 45(b) are relevant.
26	Rule 45(10)(C)	XXIV-A	Return of Tax Period for works contract	Dealer	Assessing Authority	Before 20 days of following day after closure of the tax period
27	Rule 45 10 (b)	XXIV-B	Return of monthly/ quarterly Tax Period for Company or Corporation dealing in crude oil, petrol etc.	Dealer	Assessing Authority	As above
28	Rule 45(10)	XXIV-C	Return of monthly /quarterly Tax Period for casual traders for works contract	Dealer	Assessing Authority	As per rule
29	Rule 45(10-A)	XXIV-D	Return of Tax Period Monthly/Quarterly for Casual dealers	Dealer	Assessing Authority	On next day the closure of business
30	Rule 45(6)	XXV	Quarterly T.D.S. statement by the person deducting VAT	Person deducting VAT	Assessing Authority	Each quarter ending on 30 th June, 30 th September, 31 st December and 31 st March.
31	Rule 45(7)(c)	XXVI	Annual Return for the preceding year	Dealer	Assessing Authority	By October, 31, or the date extended by Assessing Authority, for the year 2007-08, by 31.3.2009 or the date extended by Assessing Authority.
32	Rule 45(7)(c)	XXVI-A	Annual Return	Dealer	Assessing Authority	By October, 31, or the date extended by Assessing Authority, for the year 2007-08, by 31.3.2009 or the date extended by Assessing Authority.

33	Rule 45(7)(b)	XXVI-B	Annual Return for works contractor	Dealer	Assessing Authority	As above
34	Rule 45(9)	XXVII	Annual TDS Statement	Person deducting VAT	Assistant Commissioner	By June, 30, or the date extended
35	Rule 46 (2)	XXVIII	Notice of Demand	Assessing Authority	Dealer	After assessment
36	Rule 48(1)	XXIX	Application for allotment of T.D. Number to a person responsible for making TDS	Person making TDS	Registering Authority	As and when required
37	Rule 48(3)	XXX	Certificate of Allotment of tax Deduction Number	Registering Authority/Assessing Authority	Person making TDS	After allotment of Number
38	Rule 49(1)/ 45(12)	XXXI	Tax Deduction Certificate	(a) Assessing Authority (b) (i) Contractee (ii) Contractor (i) Lessee (ii) Purchaser	Person responsible for making tax deduction Contractor sub-contractor Lessor, Seller	On demand For every calendar month For every calendar month For every calendar month For every calendar month
39	Rule 50(3)	XXXIII	Refund payment order	Assessing Authority	Drawing & Drawing officer	Before expiry of 21 days from the date on which the refund has become due
40	Rule 50(5)/50(8)	XXXIV	Advice of refund of VAT	Treasury Officer	State Bank of India or other Banks	Within 4 days from receipt the bill
41	Rule 50(51)	XXXV	Indemnity Bond on Stamp paper	Claimant of refund	Assessing Authority	Before obtaining refund
42	Rule 51(1)	XXXVI	Interest Payment order	Assessing Authority	Drawing & Disbursing officer	In cases of payment of interest
43	Rule 54(1) (a) (i)	XXXVIII	Form of Declaration for import	(a) Assessing Authority	Registered dealer intending to import goods from out of U.P.	On demand
				(b) Registered dealer importing goods from out of U.P./Driver/Any person I/C	(i) When goods are consigned by road- Officer I/C of the Check post or Barrier (ii) When the goods are consigned by rail of air, river, of courier, or by post. Assessing Authority for endorsement	Original and duplicate copies to be furnished when the goods enter U.P. Original and duplicate copies to be presented before taking delivery of goods. After taking delivery the endorsed copy of the form should accompany the goods.
44	Rule 54(1) (a) (i)	XXXIX	Certificate for import for other than registered dealer	(a) Assistant Commissioner (b) Unregistered person or dealer importing goods from out of U.P./Driver/any person I/C	Dealer or person other than registered dealer intending to import goods from out of U.P. (i) and (ii) as stated at S.No 35 in respect of form XXXVIII	On demand Same as stated at S.No.35 in respect of from XXXVIII

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45	Rule 54(4)	XL	Trip Sheet	Same as at S.No.35	Same as at S.No.35	While importing goods from out of U.P.
46	Rule 57(2)	XLII	Application for obtaining form of certificate for import by dealers /person other than registered dealers	Unregistered person or dealer intending to import goods from out of U.P.	Assessing Authority	As when required
47	Rule 58(1)	XLIII	Application for obtaining Transit Authorization	Driver or person I/C of vehicle carrying goods commencing journey from outside U.P. and Destined for a place outside U.P	Officer I/C of the entry Check post	While making transit of goods by road through, the state.
48	Proviso to Rule 58(1)	XLIV	Application for obtaining Transit authorization for transit of goods through the State	Where any goods are carried from out of U.P. by rail ,river etc, at any place inside the State, for transporting outside the State by road. Driver or person I/C of the vehicle which will carry the goods outside the state.	Assessing Authority having jurisdiction over the place where the goods have been received by rail, river etc.	After receipt of the goods for onward transport by road to a place outside State
49	Rule 70(1)	XLV	Application for issue of certificate of Entitlement	Eligibility certificate Holders seeking tax deferment	Commissioner, Commercial Taxes U.P; Lucknow	As provided in Section 42 and rule 70 (1)
50	Rule 70(3)	XLVI	Report of Assessing Authority on the application in from XLY	Assessing Authority	Commissioner Commercial Taxes, U.P. Lucknow	As provide in Section 42 (3) (b)
51	Rule 70(4)	XLVII	Certificate of Entitlement	Commissioner, Commercial Taxes, U.P. Lucknow	Eligibility Certificate Holder applying for tax deferment in from XLV	As provided in Section 42 (3) (b), within 60 days from the date of the receipt of application
52	Rule 70(11)	XLVIII	Statement of Net Tax payable	Dealer availing the facility of deferment of refund of net tax payable	Assessing Authority	Along with the return of tax period (in from XXIV)
53	Rule 50-A	XLIX	Application for refund in cases of Foreign Diplomatic Mission or consulate, U.N.O. etc.	Any Official or personnel as referred to in Section 40(6)	Assessing Authority	After the end of quarter ending on 30 th June, 30 th September, 31 st December and 31 st March, but not before 20 th day of the succeeding month of the quarter.

APPENDIX-3

टैक्स आडिट की प्रक्रिया

क-टैक्स आडिट हेतु व्यापारियों का डेटा बेस तैयार किया जाना

- (1) टैक्स आडिट हेतु व्यापारियों को चयनित करने के लिए प्रत्येक टैक्स आडिट इकाई द्वारा अपने जोन के ऐसे व्यापारियों का डेटा बेस तैयार किया जायेगा जिनमें से टैक्स आडिट हेतु अधिकांश व्यापारियों का चयन किया जाना है। इस हेतु निम्न श्रेणी के व्यापारियों का सम्भागवार डेटा बेस अनिवार्य रूप से तैयार किया जायेगा :-
 - (i) वैट अधिनियम की धारा-42 के अन्तर्गत हकदारी प्रमाण-पत्र प्राप्त व्यापारी।
 - (ii) निर्यातक व्यापारी जिनके द्वारा आई.टी. सी. का रिफण्ड क्लेम किया जा रहा हो।
 - (iii) जोन के रु. 05 करोड़ से अधिक वार्षिक टर्नओवर के समस्त व्यापारी। जोन के कारपोरेट सेल के समस्त व्यापारी एवं रु. 5 करोड़ से अधिक वार्षिक टर्न-ओवर के अन्य समस्त व्यापारी।
 - (iv) टैक्स आडिट के प्रयोजनार्थ कमिश्नर द्वारा संवेदनशील घोषित वस्तुओं के व्यापारी, जिनका वार्षिक टर्न-ओवर रु. 2 करोड़ से अधिक है।
 - (v) एक करोड़ से अधिक वार्षिक टर्न-ओवर वाले निर्माता इकाईयों से सम्बन्धित व्यापारी।
- (2) उक्त के अतिरिक्त व्यापारियों की उन श्रेणियों का डेटा बेस भी टैक्स आडिट इकाई द्वारा तैयार किया जायेगा जो कमिश्नर या जोनल एडीशनल द्वारा समय-समय पर निर्धारित की जाएं।
- (3) उक्त व्यापारियों के टर्नओवर व करदेयता आदि के आँकड़ें व्यापारी के वार्षिक रिटर्न से लिये जायेंगे परन्तु धारा-42 के अन्तर्गत हकदारी प्रमाण-पत्र प्राप्त व्यापारियों के आँकड़े उनके द्वारा दाखिल मासिक विवरण पत्रों से लिये जायेंगे। यह विवरण परिशिष्ट-2 में दिये टी.ए.-1रजिस्टर के प्रारूप के पारूप में रखे जायेंगे।
- (4) प्रत्येक कर निर्धारण अधिकारी द्वारा हकदारी प्रमाण पत्र व्यापारियों से सम्बन्धित आँकड़ें प्रत्येक माह/त्रैमास टैक्स आडिट इकाई को भेजे जायेंगे। अन्य व्यापारियों से सम्बन्ध में वार्षिक रिटर्न से आँकड़ें टैक्स आडिट इकाई को भेजे जाने के साथ-साथ परिशिष्ट-3 में दी गई प्रश्नावली में निर्धारित सूचनाएं टैक्स आडिट इकाई को भेजी जायेंगी।
- (5) यदि कमिश्नर अथवा जोनल एडीशनल कमिश्नर द्वारा व्यापारियों की श्रेणी इनका नियमित डेटा बेस रखने के लिए निर्धारित की गयी है, तो इसकी सूचना भी कर निर्धारण अधिकारी को उपलब्ध करायी जायेगी ताकि वह इन श्रेणी के व्यापारियों के वार्षिक रिटर्न आडिट इकाई को भेज सके।

ख-टैक्स आडिट हेतु व्यापारियों का चयन

- (1) टैक्स आडिट हेतु व्यापारियों का चयन निम्न प्रकार से किया जायेगा :- जोन के हकदारी प्रमाण-पत्र प्राप्त समस्त व्यापारियों का टैक्स आडिट प्रत्येक वर्ष अनिवार्य रूप से किया जायेगा।
 - (i) टैक्स आडिट हेतु अन्य लगभग 20% व्यापारियों का रैंडम चयन कमिश्नर, वाणिज्य कर उत्तर प्रदेश द्वारा निर्धारित प्रक्रिया द्वारा किया जायेगा। यह चयन पूर्वोक्त प्रकार से बनाये गये डेटा बेस के व्यापारियों में से किया जायेगा।

- (ii) उक्त चयन के पूर्व डेटा बेस के व्यापारियों की निम्न प्रकार से सम्भागवार सूचियाँ बनायी जायेगी तथा प्रत्येक सूची से टैक्स आडिट हेतु व्यापारियों का चयन अलग-अलग किया जायेगा :-
- (क) निर्यातक एवं निर्माता-निर्यातक व्यापारियों के सम्बन्ध में रु. 1 करोड़ तक, रु. 1 करोड़ से 10 करोड़ तक एवं रु. 10 करोड़ से अधिक टर्नओवर के व्यापारियों की अलग-अलग सूचियाँ बनायी जायेंगी।
- (ख) संवेदनशील वस्तुओं के व्यापारियों में से प्रत्येक वस्तु के व्यापारियों की अलग सूचियाँ बनायी जायेंगी। प्रत्येक वस्तु के लिए यह सूचियाँ रु. 5 करोड़ से 10 करोड़ तक, रु. 10 करोड़ से 50 करोड़ तक व रु. 50 करोड़ से अधिक टर्नओवर के व्यापारियों लिए अलग-अलग बनाई जायेंगी।
- (ग) अन्य व्यापारियों के सम्बन्ध में रु. 5 करोड़ से 10 करोड़ तक रु. 10 करोड़ से 50 करोड़ तक व रु. 50 करोड़ से अधिक टर्नओवर के व्यापारियों की अलग-अलग सूचियाँ बनायी जायेंगी।
- (2) कमिश्नर, वाणिज्य कर उत्तर प्रदेश द्वारा निर्धारित प्रक्रिया के माध्यम से चयनित व्यापारियों के अतिरिक्त ज्वाइंट कमिश्नर आडिट द्वारा भी निम्न श्रेणियों के व्यापारियों में से लगभग 10% व्यापारियों का रैंडम चयन टैक्स आडिट हेतु किया जायेगा। इस हेतु ज्वाइंट कमिश्नर (टैक्स आडिट) व्यापारियों के वार्षिक रिटर्न की जाँच करते हुए सर्वाधिक उपयोग मामलों को टैक्स आडिट हेतु चयनित करेंगे :-
- (i) वह निर्माता व्यापारी जिनकी कच्चे माल व ईंधन की खपत तैयार माल के अनुपात में नहीं है।
- (ii) वह व्यापारी जिनकी अन्तर्प्रान्तीय बिक्री/स्टॉक ट्रान्सफर में गत वर्षों की तुलना में काफी अधिक वृद्धि हुई है।
- (iii) वह व्यापारी मामले में करमुक्त बिक्री का कुल बिक्री से अनुपात गतवर्षों की तुलना में काफी बढ़ा है।
- (iv) वह व्यापारी जिनके द्वारा सकल करदायित्व के विरुद्ध गतवर्षों की तुलना में काफी अधिक आई.टी.सी. क्लेम की गयी है।
- (v) वह व्यापारी जिनके द्वारा वार्षिक खरीद-बिक्री की तुलना में काफी अधिक रनिंग स्टॉक व अन्तिम स्टॉक दिखाया गया है।
- (vi) प्रस्तर-क (1) एवं क (2) में उल्लिखित व्यापारियों में से वह व्यापारी जिनकी टैक्स आडिट विगत 5 वर्षों में नहीं हुआ है।
- (3) टैक्स आडिट हेतु व्यापारियों के उक्त चयन के अतिरिक्त कमिश्नर, वाणिज्य कर या जोनल एडीशनल कमिश्नर किसी व्यापारी विशेष के आडिट के लिए भी निर्देशित कर सकते हैं।
- (4) टैक्स आडिट हेतु व्यापारियों के उक्त चयन के अतिरिक्त प्रस्तर-क (1) में उल्लिखित उन सभी व्यापारियों का आडिट भी समय की उपलब्धता के अनुसार किया जायेगा जो वैट अधिनियम अथवा नियमावली के प्राविधानों के अनुसार डीमड कर निर्धारण की श्रेणी में नहीं आते हैं अथवा जिन्हें डीमड कर निर्धारण की श्रेणी से अलग कर दिया गया है।
- (5) यदि किसी चयनित व्यापारी की संगत वर्ष में वि. अनु. शा. द्वारा जाँच की गई है तो उस व्यापारी का उस वर्ष का टैक्स आडिट नहीं किया जायेगा परन्तु इस व्यापारी के आगे के दो वर्षों का आडिट अनिवार्य रूप से किया जायेगा।
- (6) यह आवश्यक नहीं है कि टैक्स आडिट हेतु व्यापारियों की पूर्वोक्त समस्त श्रेणियों से व्यापारियों का चयन एक साथ ही कर लिया जाय तथा कमिश्नर वाणिज्य कर एक बार में केवल कुछ ही श्रेणी के व्यापारियों के चयन के निर्देश दे सकते

है। कमिश्नर वाणिज्य कर द्वारा जिन श्रेणी के व्यापारियों के सम्बन्ध में चयन के निर्देश दिए जायेंगे, ज्वाइन्ट कमिश्नर (टैक्स आडिट) उन्हीं श्रेणी के व्यापारियों का उप-प्रस्तर (2) के अनुसार चयन करेंगे।

- (7) उपरोक्त प्रकार से टैक्स आडिट हेतु चिन्हित समस्त व्यापारियों का इन्द्राज परिशिष्ट-2 में दिए टी.ए.-2 रजिस्टर में कर लिया जायेगा एवं आगे जब इन व्यापारियों के सम्बन्ध में टैक्स आडिट की कार्यवाही पूरी की जायेगी, तब उसका इन्द्राज भी इस रजिस्टर में किया जायेगा।
- (8) उपरोक्त प्रकार से चयनित व्यापारियों की सूचना कर निर्धारण अधिकारियों को भी भेजी जायेगी जो इन व्यापारियों की प्रविष्टि खण्ड में रखे जाने वाले टी. ए.-3 रजिस्टर में कर लेंगे। बाद में जब आडिट इकाई से सम्बन्धित मामले में आडिट रिपोर्ट प्राप्त होती है तो वह उनके सामने इसकी प्रविष्टि करते हुए कर निर्धारण आदि की आगे की कार्यवाही करेंगे।
- (9) सरकारी संस्थाओं का टैक्स आडिट नहीं किया जायेगा किन्तु कमिश्नर, वाणिज्य कर उ. प्र. के निर्देश पर सरकारी संस्थाओं का टैक्स आडिट किया जायेगा।

ग-टैक्स आडिट टीम का गठन

- (1) किसी चयनित व्यापारी का आडिट करने हेतु ज्वाइन्ट कमिश्नर (टैक्स आडिट) द्वारा एक आडिट टीम का गठन किया जायेगा। जिसमें कम से कम एक डिप्टी कमिश्नर तथा कार्य की आवश्यकता को देखते हुए एक या अधिक असिस्टेंट कमिश्नर रखे जायेंगे। डिप्टी कमिश्नर इस आडिट टीम के प्रभारी होंगे परन्तु यदि टीम में एक से अधिक डिप्टी कमिश्नर रखे जाते हैं। तो इनमें से सामान्यतः वरिष्ठतम डिप्टी कमिश्नर को टीम का प्रभारी नियुक्त किया जायेगा।
- (2) यदि आडिट टीम में कोई डिप्टी कमिश्नर तैनात नहीं है तो एक से अधिक असिस्टेंट कमिश्नरों को लेकर आडिट टीम बनायी जा सकती है जिसमें वरिष्ठतम अधिकारी टीम प्रभारी के रूप में कार्य करेगा। यदि पर्याप्त संख्या में आडिट टीम में अधिकारी तैनात नहीं हैं तो जोनल एडीशनल कमिश्नर ग्रेड 1, द्वारा नामित अधिकारी को भी आडिट टीम में सम्मिलित किया जायेगा।
- (3) बड़े एवं कॉर्पोरेट सेल के व्यापारियों के मामलों में ज्वाइन्ट कमिश्नर (टैक्स आडिट) टीम प्रभारी होंगे।
- (4) आडिट टीम के गठन का कार्यालय आदेश पूर्व में व्यापारी को नहीं भेजा जायेगा परन्तु जब आडिट की कार्यवाही व्यापारी के व्यापार-स्थल पर की गयी है। तो व्यापारी के व्यापार-स्थल पर पहुँचने पर सर्वप्रथम इस आदेश की एक प्रति व्यापारी पर तामील करायी जायेगी।

घ- टैक्स आडिट की प्रारम्भिक तैयारी

- (1) किसी व्यापारी के टैक्स आडिट के लिए ज्वाइन्ट कमिश्नर (टैक्स आडिट) द्वारा बनायी गयी आडिट टीम के प्रभारी ज्वाइन्ट कमिश्नर (टैक्स आडिट) के साथ विचार-विमर्श करके एक आडिट प्लान तैयार करने जिसमें टैक्स आडिट के महत्वपूर्ण बिन्दुओं को चिन्हित किया जायेगा।
- (2) उक्त आडिट प्लान तैयार करने के लिए सर्वप्रथम व्यापारी की उस वर्ष की करनिर्धारण पत्रावली, जिसे वर्ष का टैक्स आडिट किया जा रहा है एवं उसके एक वर्ष पूर्व व एक वर्ष बाद की करनिर्धारण पत्रावलियाँ करनिर्धारण अधिकरण से प्राप्ति की जायेंगी। तदोपरान्त उन पत्रावलियों का अध्ययन करने के साथ-साथ व्यापारी के सम्बन्ध में अन्य सूचनाएं यथा इकाई की खरीद-बिक्री की गतिविधियाँ, निर्माण की प्रक्रिया आदि की जानकारी करते हुए आडिट के महत्वपूर्ण बिन्दुओं को चिन्हित किया जायेगा जिसके लिए प्री-आडिट रिपोर्ट तैयार की जायेगी जिसका प्रारूप परिशिष्ट-4 में दिया गया है।

- (3) टैक्स आडिट व्यापारी को लेखापुस्तकों सहित कार्यालय में बुलाकर किया जायेगा। जहाँ सुविधाजनक हो अथवा किन्हीं विशेष बिन्दुओं की जाँच के लिए ही व्यापारी के व्यापार-स्थल पर जाया जायेगा।
- (4) व्यापारी के एक से अधिक व्यापार-स्थल होने की स्थिति में समान्यतः उस स्थान को टैक्स आडिट हेतु चयनित किया जायेगा जिस पर व्यापारी के लेखापुस्तकें एवं अन्य आवश्यक अभिलेख आसानी से उपलब्ध हो सकें।
- (5) टैक्स आडिट करने से पूर्व व्यापारी को नोटिस दे कर सूचित किया जायेगा। प्रेषित सूचना में आडिट किये जाने वाले वर्ष के उल्लेख के साथ टैक्स आडिट हेतु निर्धारित तिथियाँ, अवधि एवं स्थान का उल्लेख किया जायेगा। स्थान हेतु वाणिज्य अथवा व्यापारी के व्यापार स्थल का स्पष्ट उल्लेख नोटिस में किया जायेगा। यदि आडिट व्यापार स्थल पर किया जाता है। तो यह नोटिस परिशिष्ट-5 में उल्लेखित प्रारूप में ज्वाइन्ट कमिश्नर (टैक्स आडिट) द्वारा अपने हस्ताक्षर से जारी की जायेगी।
- (6) उक्त नोटिस आडिट की कार्यवाही प्रारम्भ होने की तिथि से कम से कम 15 दिन पूर्व जारी की जायेगी।
- (7) टैक्स आडिट के लिए निर्धारित अवधि उतनी ही होनी चाहिए जितनी व्यापारी की लेखा पुस्तकों की जाँच के लिए आवश्यक है। सामान्यतः यह अवधि रु. 10 करोड़ तक के टर्नओवर के व्यापारियों के लिए 3 दिन, रु. 10 से 50 करोड़ तक के टर्नओवर के व्यापारियों के लिए 4 दिन तथा रु. 50 करोड़ से ऊपर के टर्नओवर के लिए 5 दिन से अधिक नहीं होनी चाहिए।
- (8) व्यापारी के व्यापारी-स्थल पर आडिट की दशा में आडिट की तिथियाँ इस प्रकार निर्धारित की जानी चाहिए कि बीच में व्यापारी के बाजार या उद्योग की बन्दी के दिन को विश्राम रखते हुए आडिट की तिथियाँ निर्धारित की जानी चाहिए।

च – टैक्स आडिट का सम्पादन

- (1) टैक्स आडिट में व्यापारी के नियमित व्यापार के क्रम में रखे गये समस्त अभिलेखों यथा कैशबुक, डेबुक, लेजर, स्टॉक रजिस्टर, माल प्राप्ति व डिस्पैच रजिस्टर, माल की खरीद व बिक्री के इनवायसेज, बिक्री के टैक्स इनवायस व सेल इनवायसेज, माल प्राप्ति व प्रेषण के चालन, गेट पास आदि का गहन परीक्षण किया जायेगा एवं देखा जायेगा एवं कि व्यापारी को यह लेखा पुस्तकें व्यापार के नियमित क्रम में रखी गयी है अथवा नहीं।
- (2) व्यापारी की सेल इन्वेयसेज की जाँच में यह भी देखा जाना चाहिए कि व्यापार की प्रकृति को देखते हुए कही व्यापारी द्वारा बहुत अधिक संख्या में सेल इन्वायसेज तो नहीं जारी की जा रही है। ऐसे मामलों में यदि किसी व्यक्ति/व्यापारी के नाम बड़ी संख्या में सेल इन्वायसेज जारी की गयी है, तो इनका विवरण लेकर सम्बन्धित क्षेत्र की वि. अनु. शा. इकाई से जाँच करायी जानी चाहिए एवं यदि यह पाया जाता है कि क्रेता अस्तित्वहीन है अथवा क्रेता फर्म पंजीकृत होने के बावजूद उसके नाम टैक्स इनवायस न जारी करके फर्म के स्वामी/साझीदार आदि के नाम सेल इनवायसेज जारी है, तो ऐसे मामलों में व्यापारी के विरुद्ध उचित अर्थदण्ड की कार्यवाही की संस्तुति की जानी चाहिए।

सेल इनवायसेज की जाँच के उक्त क्रम में नकद बिक्री की सेल इनवायसेज की जानी चाहिए एवं यह देखा जाना चाहिए कि इसका भुगतान वास्तव में नकद प्राप्त हुआ है या नहीं तथा माल की दुकान/गोदाम पर ही डिलीवरी दी गई है अथवा नहीं तदनुसार यदि यह पाया जाता है कि माल की उधार बिक्री की गयी है तो छिपाने के आरोप में व्यापारी के विरुद्ध अर्थदण्ड की कार्यवाही की संस्तुति की जानी चाहिए।

- (3) टैक्स आडिट में व्यापारी की लेखापुस्तकों की जाँच के साथ-साथ विभिन्न लेखापुस्तकों में अंकित विवरणों का क्रॉस वैरीफिकेशन भी किया जाना चाहिए। उदहरणार्थ, यदि व्यापारी द्वारा स्टॉक रजिस्टर रखा गया है तो किसी खरीद की प्रविष्टि कैश बुक व लेजर में देखने के साथ-साथ उसकी प्रविष्टि स्टॉक रजिस्टर में भी देखी जानी चाहिए तथा बैंक खाते से उसके भुगतान का भी सत्यापन किया जाना चाहिए।

- (4) यदि व्यापारी द्वारा स्टॉक रजिस्टर रखा गया है तो खरीद बिक्री स्टॉक सत्यापन के साथ व्यापारी द्वारा घोषित सकल लाभ का सत्यापन भी किया जायेगा।
- (5) आवश्यकतानुसार व्यापारी द्वारा आयकर विभाग अथवा केन्द्रीय उत्पाद शुल्क विभाग में दाखिल विवरणों से भी खरीद-बिक्री का सत्यापन किया जाना चाहिए।
- (6) लेखा पुस्तकों की उपरोक्तानुसार जाँच में आडिट प्लान में चिन्हित महत्वपूर्ण बिन्दुओं को सदैव ध्यान में रखा जायेगा तथा बिन्दुओं जो सम्भावित करापंचन को पकड़ने व प्रमाणित किए जाने हेतु महत्वपूर्ण है, पर विशेष रूप से जाँच की जायेगी।
- (7) खरीद-बिक्री के सम्बन्धों की जाँच के पश्चात् व्यापारी द्वारा वार्षिक रिटर्न में क्लेम की गई करमुक्तियों/रियासतों की जाँच की जायेगी। इस सम्बन्ध में व्यापारी द्वारा न केवल प्रान्तीय केन्द्रीय अधिनियमों व नियमावलियों के अन्तर्गत दाखिल फार्मों की जाँच की जायेगी, वरन् उन अभिलेखों की भी जाँच की जायेगी जिनके आधार पर रही है। उदाहरणार्थ, निर्यात के मामले में न केवल फार्म-एच की जाँच की जानी चाहिए वरन् निर्यात से प्राप्त आदेश, इस आदेश में उल्लिखित माल की मात्रा व किस्म, इस आदेश के विरुद्ध आपूर्ति किये गये माल की मात्रा व किस्म, निर्यातक को माल भेजे जाने का साक्ष्य तथा निर्यातक द्वारा फार्म-एच के साथ उपलब्ध करायी गयी बिल आफ लेडिंग/एयर-वे-बिल आदि की भी जाँच की जानी चाहिए ताकि यह भली-भाँति स्पष्ट हो सके कि व्यापारी द्वारा प्रश्नगत बिक्री वास्तव में केन्द्रीय बिक्रीकर अधिनियम की धारा 5(3) के प्रावधानों के अन्तर्गत की गई है।
- (8) व्यापारी के शुद्धता करदायित्व के निर्धारण के सम्बन्धों में व्यापारी द्वारा क्लेम की गई आई. टी. सी. की जाँच अत्यधिक महत्वपूर्ण है। इस सम्बन्ध में आडिट के समय निम्न बिन्दुओं को रखकर व्यापारी द्वारा क्लेम की गई आई. टी. सी. की शतप्रतिशत जाँच की जायेगी :-
 - (क) क्या जो आई. टी. सी. क्लेम की गयी है। वह खरीद के इनवाइसेज से समर्थित है ?
 - (ख) क्या कर निर्धारण अधिकारी द्वारा खरीद के टैक्स इनवाइसेज का विक्रेता के रिटर्न से सत्यापन कराया गया है ?
 - (ग) क्या बिक्रीत माल की वापसी के सम्बन्ध में उचित ढंग से सशोधित रिटर्न दाखिला किये गये हैं।
 - (घ) क्या स्टॉक ट्रान्सफर में मामलों में सही ढंग से आर. आई. टी. सी. की गणना की गयी है।
 - (ङ) क्या व्यापारी द्वारा गत वर्ष से आगे लायी गयी एवं अगले वर्ष ले जायेगी आई. टी. सी. सही हैं।
- (9) आडिट टीम द्वारा आई. टी. सी. की उक्त जाँच के अतिरिक्त सन्देहास्पद मामलों में टैक्स इनवाइस का क्रम वेरीफिकेशन भी किया जायेगा।
- (10) आडिट टीम द्वारा व्यापारी की लेखापुस्तकों एवं करदेयता आदि की जाँच के दौरान यदि यह पाया जाता है कि व्यापारी द्वारा शुद्ध एवं सकल करदायित्व सही नहीं है अथवा व्यापारी द्वारा आई. टी. सी. व आर. आई. टी. सी. की गणना सही तरीके से नहीं की गई है तो व्यापारी को इस तथ्य से अवगत कराते हुए उसका स्पष्टीकरण भी प्राप्त किया जायेगा। गणना की यह त्रुटियाँ गम्भीर होने की स्थिति में व्यापारी से स्पष्टीकरण लिखित रूप से भी प्राप्त किया जा सकता है।
- (11) आडिट के दौरान लेखापुस्तकों एवं विभिन्न अभिलेखों की जाँच का विवरण एक आडिट शीट पर अंकित किया जायेगा। यह आडिट प्रत्येक दिन जाँच किए गए अभिलेखों के लिए अलग-अलग रखा जायेगा एवं इसमें अभिलेखों के वह समस्त विवरण जो अन्त में व्यापारी का कुल व करेगा। टर्नओवर तथा उसकी करदेयता की गणना करने के लिए आवश्यक हों अंकित किये जायेगा। प्रत्येक दिन के अन्त में इस आडिट शीट पर व्यापारी के हस्ताक्षर कराये जायेगे।

- (12) यदि आडिट टीम के अलग-अलग अधिकारी एक ही समय पर अलग-अलग अभिलेखों की जाँच कर रहे हो तो प्रत्येक अधिकारी द्वारा अलग-अलग आडिट शीट रखी जा सकती है।
- (13) प्रत्येक लेखापुस्तकों की जाँच के पश्चात् उसके प्रारम्भ व अन्त में तथा बीच में भी अनेक स्थानों पर हस्ताक्षर किये जायेंगे तथा इसका विवरण आडिट शीट पर अंकित किया जायेगा।
- (14) आडिट शीट पर लेखापुस्तकों की जाँच का विस्तृत विवरण अंकित करने के पश्चात् किसी अभिलेखों की फोटो कापी लेने की आवश्यकता नहीं होनी चाहिए। परन्तु विशिष्ट मामलों में जहाँ साक्ष्य की दृष्टि से अथवा किसी बिन्दु को स्पष्ट करने की दृष्टि से मूल अभिलेख की फोटो प्रति भी ली जा सकती है। किसी अभिलेखों की फोटो प्रति लिए जाने की दशा में इसका उल्लेख आडिट शीट पर किया जायेगा एवं फोटो प्रति पर व्यापारी अथवा उसके उपस्थित प्रतिनिधि के हस्ताक्षर भी कराये जायेंगे।
- (15) टैक्स आडिट के उपरान्त व्यापारी की लेखा पुस्तकों की जाँच के समय सामान्यतः व्यापारी का बयान नहीं लिया जायेगा। यदि व्यापारी के अभिलेखों में कुछ ऐसी प्रविष्टियाँ पायी जाती है जिसमें व्यापारी के स्पष्टीकरण की आवश्यकता हो, ऐसी स्थिति में मात्र जानकारी प्राप्त करने के उद्देश्य से उस सीमा तक ही बयान लिया जायेगा। समस्त आपेक्षित प्रश्नों की एक बार में ही प्रश्नावली बनाकर सम्बन्धित बिन्दुओं पर एक ही बयान लिया जायेगा, जिससे अस्पष्ट बिन्दुओं की स्थिति स्पष्ट हो सकें।
- (16) टैक्स आडिट के उपरान्त व्यापारी की लेखा - पुस्तकों की जाँच के समय पायी गयी महत्वपूर्ण तथ्यों के आधार पर पोस्ट-आडिट रिपोर्ट तैयार की जायेगी जिसके प्रारूप परिशिष्ट-6 में दिया गया है।

छ-स्टॉक की जाँच

- (1) टैक्स आडिट व्यवस्था में व्यापारी की लेखा पुस्तकों की जाँच कर निर्धारण वर्ष की समाप्ति के उपरान्त की जाती है, अतः लेखापुस्तकों में प्रदर्शित किसी तिथि के स्टॉक का भौतिक सत्यापन सीधे तौर से सम्भव नहीं है। तदनुसार आडिट के समय स्टॉक भौतिक सत्यापन की कार्यवाही सामान्यतः नहीं की जायेगी। परन्तु यदि लेखापुस्तकों के आडिट में किसी वस्तु का स्टॉक असामान्य रूप से कम या अधिक पाया जाता है तो इसकी सत्यता की जाँच हेतु उस वस्तु के आडिट के समय उपलब्ध स्टॉक का भौतिक सत्यापन भी किया जायेगा।
- (2) यदि जाँच में सम्बन्धित वस्तु का स्टॉक जाँच की तिथि में व्यापारी लेखापुस्तकों में प्रदर्शित स्टॉक अथवा (यदि व्यापारी द्वारा कोई स्टॉक रजिस्टर नहीं रखा गया है) खरीद बिक्री के आधार पर गणना करके निकाले गये स्टॉक से भिन्न पाया जाता है, तो टैक्स आडिट अधिकारी द्वारा इस अन्तर का उल्लेख करते हुए आडिट रिपोर्ट में सम्बन्धित वस्तु के दिखाये गये अन्तिम स्टॉक की सत्यता एवं स्वीकार्यता के सम्बन्ध में टिप्पणी अंकित की जायेगी।
- (3) स्टॉक की जाँच की यह कार्यवाही सामान्य सर्वेक्षण की भाँति सर्वेक्षण डायरी पर की जायेगी। यदि आवश्यक हुए तो स्टॉक के सत्यापन हेतु आडिट टीम के सहयोगी हेतु जोनल अधिकारियों को जोनल एडीशनल कमिश्नर ग्रेड-1 द्वारा आडिट टीम को उपलब्ध कराया जायेगा।

ज- आडिट अवधि का बढ़ाया जाना

- (1) यदि व्यापारी के व्यापार-स्थल पर की जा रही आडिट की कार्यवाही निर्धारित अवधि में पूरी नहीं हो पाती है तो आडिट टीम के प्रभारी तत्काल इसकी सूचना ज्वाइन्ट कमिश्नर (टैक्स आडिट) को देंगे तथा आडिट कार्य पूरा न हो पाने के कारणों का संक्षिप्त उल्लेख करने के साथ-साथ अतिरिक्त अवधि, जिसकी आवश्यकता है, का भी उल्लेख करेंगे।

- (2) ज्वाइन्ट कमिशनर (टैक्स आडिट) आडिट टीम के प्रभारी की रिपोर्ट का अवलोकन करते हुए आडिट हेतु अतिरिक्त अवधि का निर्धारण करेंगे एवं इसकी सूचना व्यापारी को भी देंगे।
- (3) आडिट की अवधि सामान्यता एक से अधिक नहीं बढ़ायी जायेगी तथा आडिट टीम का दायित्व होगा कि वह प्रत्येक दशा में अतिरिक्त निर्धारित अवधि में आडिट की कार्यवाही पूरी करें।

अ- आडिट रिपोर्ट तैयार किया जाना

- (1) टैक्स आडिट सम्पन्न हो जाने के पश्चात् आडिट टीम द्वारा टैक्स आडिट रिपोर्ट तैयार की जायेगी जिसमें निम्न बिन्दुओं का विशेष रूप से समावेश किया जायेगा।
 - (i) वस्तुएँ जिनका निर्माण या व्यापार किया जाता है।
 - (ii) प्रान्त के बाहर से एवं अपंजीकृत व्यापारी से खरिद अथवा मंगायी जाने वाली प्रमुख वस्तुएँ।
 - (iii) वार्षिक रिटर्न के अनुसार घोषित वस्तुवार खरीद व बिक्री।
 - (iv) वार्षिक रिटर्न में घोषित सकल करदायित्व, आई. टी. सी. का समायोजन एवं शुद्ध करदायित्व।
 - (v) वार्षिक रिटर्न के साथ दाखिल किये गये प्रान्तीय व केन्द्रीय अधिनियमों/नियमावलियों में निर्धारित करमुक्ति/रियायत सम्बन्धी फार्म।
 - (vi) कर के रूप में जमा धनराशि।
 - (vii) रिफण्ड, यदि कोई प्राप्त किया गया हो।
 - (viii) टैक्स आडिट के फलस्वरूप व्यापारी के लेखापुस्तकों एवं क्लेम की गई करमुक्तियों/रियायतों की स्वीकार्यता की स्थिति। यदि व्यापारी की लेखा पुस्तकें स्वीकार योग्य नहीं पायी जाती हैं, एवं इन्हें अस्वीकार करते हुए सर्वोत्तम न्याय एवं विवेक से कर निर्धारण किया जाना आवश्यक हों तो आडिट रिपोर्ट में इसके विस्तृत कारण उल्लिखित किये जायेंगे जिसमें व्यापारी द्वारा प्रस्तुत स्पष्टीकरण का भी समावेश होगा। इसी प्रकार यदि व्यापारी द्वारा क्लेम की गई कर मुक्तियाँ/रियायतें स्वीकार योग्य नहीं पाई जाती हैं, आडिट रिपोर्ट में इसके भी कारण दिये जायेंगे।
 - (ix) यदि व्यापारी की लेखा पुस्तकें अन्यथा स्वीकार योग्य पायी जाती हैं परन्तु उसके द्वारा घोषित खरीद-बिक्री या करदेयता में कतिपय संशोधन वांछित है तो इनका उल्लेख करते हुए व्यापारी की सही करदेयता निर्धारित की जायेगी तथा व्यापारी द्वारा जमा करने हेतु अवशेष कर की धनराशि भी निकाली जायेगी।
 - (x) आडिट रिपोर्ट में उन अपराधों का भी उल्लेख किया जायेगा जिनके लिए व्यापार के विरुद्ध अर्थदण्ड की कार्यवाही किया जाना वांछित है। इस सम्बन्ध में ध्यान रखना आवश्यक है कि चूँकि वैट व्यवस्था में मूलभूत रूप से स्वतः कर निर्धारण की व्यवस्था रखी गयी है जिसमें चयनित मामलों को छोड़कर शेष मामलों में व्यापारी को स्वतःकर निर्धारित मान लिया जाता है, अतः टैक्स आडिट में यदि व्यापारी की लेखापुस्तकों में गम्भीर त्रटियाँ पायी जाती हैं अथवा व्यापारी द्वारा करापंवन किया जाना पाया जाता है, तो ऐसे मामले में व्यापारी के विरुद्ध अर्थदण्ड की कठोर कार्यवाही की जानी आवश्यक है।
 - (xi) विशिष्ट मामलों में जहाँ यह पाया जाता है कि व्यापारी द्वारा केवल फर्जी टैक्स इनवायस जारी करने के उद्देश्य से पंजीयन लिया गया है अथवा पंजीयन का अन्यथा दुरुपयोग करते हुए करापंवन किया जा रहा है, तो ऐसे मामलों में व्यापारी का पंजीयन निरस्त करने की संस्तुति भी की जानी चाहिए।

- (2) इस प्रकार डिप्टी कमिशनर (टैक्स आडिट) की अध्यक्षता वाली टीम द्वारा तैयार की गई रिपोर्ट ज्वाइन्ट कमिशनर (टैक्स आडिट) के अनुमोदित हेतु उनके समक्ष रखी जायेगी जो आडिट रिपोर्ट का परीक्षण करते हुए इसे अनुमोदित करेंगे। परन्तु यदि उनके द्वारा यह पाया जाता है कि किसी भी महत्वपूर्ण बिन्दु पर आडिट टीम द्वारा जाँच नहीं की गई है तो वह ऐसे के व्यापार-स्थल पर पुनः जाने की आवश्यकता नहीं होनी चाहिए तथा जब अन्यथा आवश्यक न हों, ऐसी जाँच व्यापारी को कार्यालय में बुलाकर ही की जायेगी। इस प्रकार अन्तिम रूप से अनुमोदित टैक्स आडिट रिपोर्ट कर निर्धारित अधिकारी को प्रेषित की जायेगी एवं इसकी एक प्रति सम्बन्धित ज्वाइन्ट कमिशनर (कार्यपालक) को भी भेजी जायेगी।
- (3) ज्वाइन्ट कमिशनर (टैक्स आडिट) की अध्यक्षता वाली टीम द्वारा तैयार की गयी आडिट रिपोर्ट को अन्तिम रूप अनुमोदन हेतु जोनल एडीशनल कमिशनर ग्रेड-1 के समक्ष रखी जायेगी।
- (4) टैक्स आडिट टीम द्वारा व्यापारी के टैक्स आडिट के निष्पादन के 90 दिन की अवधि के अन्दर टैक्स आडिट रिपोर्ट तैयार करके कर निर्धारण अधिकारी को प्रेषित की जायेगी।
- (5) टैक्स आडिट टीम की अवधि में रिपोर्ट प्रेषित किया जाना सम्भव न हो, तो ऐसी स्थिति में विलम्ब से सम्बन्धित समस्त कारणों का उल्लेख करते हुए 90 दिन के पश्चात् रिपोर्ट प्रेषित किये जाने की अनुमति जोनल एडीशनल कमिशनर ग्रेड-1 से प्राप्त की जायेगी।
- (6) यदि जोनल एडीशनल कमिशनर विलम्ब से सम्बन्धित कारणों को उचित एवं सन्तोषजनक पाते हैं तो 90 दिन के पश्चात् रिपोर्ट भेजने की अवधि बढ़ाते हुए अपने सन्तोषानुसार पर्याप्त एवं उचित समय प्रदान करेंगे।
- (7) टैक्स आडिट की रिपोर्ट की प्रति टैक्स आडिट टीम द्वारा सीधे कर निर्धारण अधिकारी को दी जायेगी।

ट- विगत वर्षों का आडिट

- (1) यदि आडिट टीम द्वारा आडिट के समय यह पाया जाता है कि व्यापारी द्वारा करापंक्चन के उद्देश्य से कतिपय सूचनाएं छिपायी गयी अथवा गलत रूप से कोई छूट प्राप्त की गई है तो उसके द्वारा अनुमोदन हेतु आडिट रिपोर्ट प्रस्तुत किए जाने के साथ ही व्यापारी के विगत वर्षों के टैक्स आडिट किए जाने की संस्तुति भी ज्वाइन्ट कमिशनर (टैक्स आडिट) के समक्ष प्रस्तुत की जायेगी।
- (2) विगत वर्षों के टैक्स आडिट की इस संस्तुति में यह स्पष्ट रूप से उल्लेख किया जायेगा कि व्यापारी द्वारा विगत कितने वर्षों में इस प्रकार की सूचनाएं छिपाये जाने एवं गलत प्रकार से छूट प्राप्त किए जाने की सम्भावना है एवं तदनुसार विगत कितने वर्षों का आडिट किया जाना वांछनीय है।
- (3) ज्वाइन्ट कमिशनर (टैक्स आडिट) द्वारा आडिट रिपोर्ट एवं आडिट टीम द्वारा की गई संस्तुति के आधार पर गत वर्षों के आडिट के सम्बन्ध में निर्णय लिया जायेगा किन्तु यह अवधि उत्तर प्रदेश वैट अधिनियम धारा-28 एवं धारा-29 में निहित कालवादन की सीमा के अन्तर्गत ही होगी।
- (4) उक्त निर्माण किए जाने के बाद सम्बन्धित वर्षों का आडिट की सामान्य आडिट की भाँति किया जायेगा परन्तु इस हेतु सभी सम्बन्धित वर्षों की नोटिस एक साथ भेजी जायेगी। इस नोटिस में यह भी उल्लिखित किया जायेगा कि अमुक वर्ष के टैक्स आडिट के दौरान पाये गये तथ्यों के आधार पर प्रश्नगत वर्षों का टैक्स आडिट करने का निर्णय लिया गया है।
- (5) व्यापारी के विगत वर्षों के आडिट की यह सूचना कर निर्धारण अधिकारी को भी भेजी जायेगी।

