

**WORKSHOP ON MVAT & CST  
at WIRC-ICAI  
on 26-06-2015**

**KIRAN G. GARKAR, FCA**

# Agenda

- **Registration under MVAT Act**
- **Registration under CST Act**
- **Registration under Profession Tax Act**
  
- **Definitions**
- **Incidence and levy of tax**
- **Rules**
- **Trade Circulars**

# Important definitions

## ➤ **Business** :Sec.2(4)

- “business” includes, -
- (a) any service;
- (b) any trade, commerce or manufacture;
- (c) any adventure or concern in the nature of service, trade, commerce or manufacture;
- whether or not the engagement in such service, trade, commerce, manufacture, adventure or concern is with a motive to make gain or profit and whether or not any gain or profit accrues from such service, trade, commerce, manufacture, adventure or concern.

# Important definitions

- ***Explanation.***– For the purpose of this clause,-
- (i) the activity of raising of man-made forest or rearing of seedlings or plants shall be deemed to be business;
- (ii) any transaction of sale or purchase of capital assets pertaining to such service, trade, commerce, manufacture, adventure or concern shall be deemed to be a transaction comprised in business;
- (iii) sale or purchase of any goods, the price of which would be credited or, as the case may be, debited to the profit and loss account of the business under the double entry system of accounting shall be deemed to be transactions comprised in business;
- (iv) any transaction in connection with the commencement or closure of business shall be deemed to be a transaction comprised in business;

# Important definitions

- **Capital asset** :sec.2(5): To have same meaning as assigned to it under Income Tax Act 1961,
- but not to include jewellery held for personal use or
- property not connected with the business.

# Important definitions

- 2(8): “Dealer” means any person who, for the purposes of or consequential to his engagement in or, in connection with or incidental to or in the course of, his business buys or sells, goods in the State whether for commission, remuneration or otherwise and includes,-
- (a) a factor, broker, commission agent, del-credere agent or any other mercantile agent, by whatever name called, .....in the course of the business, buys or sells any goods on behalf of any principal or principals whether disclosed or not;
- (b) an auctioneer who sells or auctions goods whether acting as an agent or otherwise or, who organises the sale of goods or conducts the auction of goods whether or not he has the authority to sell the goods belonging to any principal ..... and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal;

# Important definitions

- 2(8): “Dealer” contd...
- (c) a non resident dealer or as the case may be, an agent, residing in the State of a non-resident dealer, who buys or sells goods in the State for the purposes of or consequential to his engagement in or in connection with or incidental to or in the course of, the business,
- (d) any society, club or other association of persons which buys goods from, or sells goods to, its members;
- ***Explanation.***— For the purposes of this clause, each of the following persons, bodies & entities who sell any goods whether by auction or otherwise, directly or through an agent for cash, or for deferred payment, or for any other valuable consideration shall, notwithstanding anything contained in clause (4) or any other provision of this Act, be deemed to be a dealer, namely:-

# Important definitions

- (i) Customs Department of the Government of India
- (ii) Departments of Union Government & any Department of any State Government;
- (iii) Local authorities;
- (iv) Port Trusts;
- (iv-a) Public Charitable Trust;
- (v) Railway Administration [under the Indian Railways Act, 1989 ] & KRCL
- (vi) Incorporated or unincorporated societies, clubs or other associations of persons;
- (vii) Insurance and Financial Corporations, institutions or companies and Banks
- (viii) Maharashtra State Road Transport Corporation constituted under the Road Transport Corporation Act, 1950 (LXIV of 1950);
- (ix) Shipping and construction companies, Air Transport Companies, Airlines and Advertising Agencies;
- (x) any other corporation, company, body or authority owned or constituted by, or subject to administrative control, of the Central Government, any State Government or any local authority:



# Important definitions

- **Exception I.**— An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally, shall not be deemed to be a dealer within the meaning of this clause.
- **Exception II.**— An educational institution carrying on the activity of manufacturing, buying or selling goods, in the performance of its functions for achieving its objects, shall not be deemed to be a dealer within the meaning of this clause.
- **Exception III.**— A transporter holding permit for transport vehicles (including cranes) granted under the Motor Vehicles Act, 1988 (5 of 1988), which are used or adopted to be used for hire or reward shall not be deemed to be a dealer within the meaning of this clause in respect of sale or purchase of such transport vehicles or parts, components or accessories thereof.

# Important definitions

- **(12) “goods” means every kind of movable property not being newspapers, actionable claims, money, stocks, shares, securities or lottery tickets and includes live stocks, growing crop, grass and trees and plants including the produce thereof including property in such goods attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;**
- **(13) “importer” means a dealer who brings any goods into the State or to whom any goods are dispatched from any place outside the State;**
- **(15) “manufacture”, with all its grammatical variations and cognate expressions includes producing, making, extracting, altering, ornamenting, finishing or otherwise processing, treating or adapting any goods;**

# Important definitions

- **(24) “sale” means a sale of goods made within the State for cash or deferred payment or other valuable consideration but does not include a mortgage, hypothecation, charge or pledge; and the words “sell”, “buy” and “purchase”, with all their grammatical variations and cognate expressions, shall be construed accordingly;**
- ***Explanation.*— For the purposes of this clause,-**
- **(a) a sale within the State includes a sale determined to be inside the State in accordance with the principles formulated in section 4 of the Central Sales Tax Act, 1956 (74 of 1956);**
- **(b)(i) the transfer of property in any goods, otherwise than in pursuance of a contract, for cash, deferred payment or other valuable consideration;**
- **(ii) the transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract including, an 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 of any movable or immovable property;**

# Important definitions

- **(iii) a delivery of goods on hire-purchase or any system of payment by instalments;**
- **(iv) the transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;**
- **(v) the supply of goods by any association or body of persons incorporated or not, to a member thereof for cash, deferred payment or other valuable consideration;**
- **(vi) the supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is made or given for cash, deferred payment or other valuable consideration;**
- **shall be deemed to be a sale**

# Important definitions

- (25) “sale price” means the amount of valuable consideration paid or payable to a dealer for any sale made including any sum charged for anything done by the seller in respect of the goods at the time of or before delivery thereof, other than the cost of insurance for transit or of installation, when such cost is separately charged.
- *Explanation I.*— The amount of duties levied or leviable on goods under the Central Excise Act, 1944 (1 of 1944) or the Customs Act, 1962 (52 of 1962) or the Bombay Prohibition Act, 1949 (Bom. 25 of 1949), shall be deemed to be part of the sale price of such goods, whether such duties are paid or payable by or on behalf of, the seller or the purchaser or any other person.
- *Explanation IA-* Sale price shall not include the amount of service tax levied or leviable under the Finance Act 1994 and collected separately from the purchaser.

# Important definitions

- ***Explanation II.*— Sale price shall not include tax paid or payable to a seller in respect of such sale.**
- ***Explanation III.*— Sale price shall include the amount received by the seller by way of deposit, whether refundable or not, which has been received whether by way of a separate agreement or not, in connection with or incidental or ancillary to, the said sale of goods;**
- (33) “turnover of sales” means the aggregate of the amounts of sale price received and receivable by a dealer in respect of any sale of goods made during a given period after deducting the amount of -
- (a) sale price, if any, refunded by the seller, to a purchaser, in respect of any goods purchased and returned by the purchaser within the prescribed period; and (b) deposit, if any, refunded in the prescribed period, by the seller to a purchaser in respect of any goods sold by the dealer.

# Important definitions

- **Explanation I.**— In respect of goods delivered on hire-purchase or any system of payment by instalment or in respect of the transfer of the right to use any goods for any purpose (whether or not for a specified period) the amounts of sale price received or receivable during a given period shall mean the amounts received or as the case may be, due and payable during the said period;
- **Explanation III.**— Where the registration certificate is cancelled, the amounts of sale price in respect of sales made before the date of the cancellation order, received or receivable after such date, shall be included in the turnover of sales during a given period;
- (30) “tax-free goods” means goods against which the rate of sales tax is shown to be NIL in the Schedule and “taxable goods” means goods other than tax free goods;
- (35) “year” means the financial year.

# Incidence & Levy of tax

- Sec. 3(2)> A dealer to whom sub-section (1) does not apply and whose turnover either of all sales or, as the case may be, purchases made, during the year commencing on the appointed day or any year subsequent thereto, first exceeds the relevant limit, specified in sub-section (4), shall, until such liability ceases under sub-section (3), be liable to pay tax under this Act with effect from the 1st day of April of the said respective year:
- Provided that, a dealer shall not be liable to pay tax in respect of such sales and purchases as take place during the period commencing on the 1st day of April of the said respective year upto the time when his turnover of sales or turnover of purchases, as computed from the 1st day of April of the said respective year, does not exceed the relevant limit applicable to him under sub-section (4).
- Sec. 3(3) > Every dealer who has become liable to pay tax under this Act, shall continue to be so liable until his registration is duly cancelled; and upon such cancellation his liability to pay tax, other than tax already levied or leviable, shall remain ceased until his turnover again first exceeds the relevant limit specified in sub-section (4) or, as the case may be, until he becomes liable to pay tax under sub-sections (8) or (9).



# Incidence & Levy of tax

- Sec.3(4) For the purposes of this section, the limits of turnover shall be as follows :-
- (a) Limit of turnover Rs. 1,00,000.— in the case of a dealer, who is an importer, and the value of taxable goods sold or purchased by him during the year is not less than Rs. 10,000.
- (b) Limit of turnover Rs. 10,00,000.—in any other case, where the value of taxable goods sold or purchased by him during the year is not less than Rs. 10,000.

# Incidence & Levy of tax

- (5) For the purpose of calculating the limit of turnover of sales for liability to tax,-
- (a) except as otherwise expressly provided, the turnover of all sales shall be taken, whether such sales are of taxable goods or not
- (b) the turnover of sales shall include all sales made by the dealer on his own account, and also on behalf of his principals whether disclosed or not;
- (c) in the case of an auctioneer, in addition to the turnover of sales, if any, referred to in clauses (a) and (b), the turnover of sales shall also include the price of the goods auctioned by him for his principal, whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal, if the price of such goods is received by him on behalf of his principal ;
- (d) in the case of an agent of a non-resident dealer, in addition to the turnover of sales, if any, referred to in clause (a), (b) or (c), the turnover of sales shall also include the sales of the non-resident dealer effected in the State.

# Incidence & Levy of tax

- (5A) For the purpose of calculating the limit of turnover of purchases for liability to tax, the turnover of purchases of the goods that are liable to purchase tax as specified in section 6A and 6B shall be considered. The provisions of sub-section (5) in respect of sales shall apply *mutatis mutandis*.
- (6) Notwithstanding anything contained in any contract or any law for the time being in force, but subject to the provisions of this Act, any person covered by sub-clause (a), (b) or (c) of clause (8) of section 2 shall be liable to pay tax under this Act, whether, or not the principal is a dealer and whether, or not such principal is liable to pay tax under this Act and whether or not the principals are disclosed.

# Incidence & Levy of tax

- (8) Where a dealer liable to pay tax under this Act is succeeded in the business by any person in the manner described in clause (a) of sub-section (1) or sub-section (4) of section 44, then such person shall, notwithstanding anything contained in this section, be liable to pay tax on the sales or purchases of goods effected by him on and after the date of such succession and accordingly nothing contained in the proviso to sub-section (2) shall apply to him in any year.
- (9) Any person who is not liable to pay tax under the foregoing, provisions of this section but has been voluntarily registered under the provisions of this Act shall be liable to pay tax from the date of effect of the certificate of registration duly granted to him and accordingly nothing contained in the proviso to sub-section (2) shall apply to him in any year.

# Incidence & Levy of tax

- Special provisions
- Section 44:
  - (1) Death of proprietor
  - (4) Transfer of full/partial business
- Section 47: Amalgamation or de-merger of companies
  - Sec. 44(4A): in case of amalgamation, merger or demerger, the transfer of business shall be deemed to have taken effect from
    - 1. date of the order of High Court/Tribunal/ Central Govt.
    - 2. the date on which the ROC notifies the amalgamation, merger or demerger

# Registration under MVAT Act

- **Section 16 (1):** No dealer shall, while being liable to pay tax under this Act, be engaged in the business as a dealer, unless he possesses a valid certificate of registration as provided by this Act :
- Provided that, the provisions of this sub-section shall be deemed not to have been contravened, if the dealer having applied, within the prescribed time, for such registration as provided in this section, is engaged in such business :
- Provided further that, if any dealer, holds the certificate of registration granted under the Bombay Sales Tax Act, 1959, ...
- 16(2) Every dealer, required by sub-section (1) to possess a certificate of registration or one who voluntarily desires to get registered shall apply in the prescribed manner to the prescribed authority for grant of such registration.
- Provided that, -----

# Registration under MVAT Act

- if the application is made on or after the commencement of the Maharashtra Tax Laws (Levy, Amendment and Validation) Act, 2011, by a person who voluntarily desires to get registered, the application shall not be entertained, unless the applicant has deposited an amount of rupees 25,000 in the Government Treasury by way of security deposit and the amount so deposited shall not be adjusted against the tax payable as per any return or towards any other liability under this Act.
- 16(2A) The security deposit deposited under the proviso to subsection (2) shall be refundable on such conditions, restrictions and within such time as may be prescribed. The security deposit shall be forfeited, if there is no compliance of such conditions, restrictions and time limit.

# Registration under MVAT Act

- 16(3) If the prescribed authority, after scrutiny of the application and after such enquiry as it deems fit, is satisfied that the application for registration is in order and the prescribed conditions are fulfilled, shall register the applicant and issue to him a certificate of registration in the prescribed form:
- Provided that, the prescribed authority, on finding that the application is not complete or that the information or documents prescribed for grant of registration certificate have not been furnished, or, the prescribed conditions are not fulfilled, **may, after giving the applicant a reasonable opportunity of being heard, reject the application for reasons to be recorded in writing.**
- 16(4) The Commissioner may, after considering any information furnished under any of the provisions of this Act or otherwise received, amend, from time to time, any certificate of registration.



# Registration under MVAT Act

- 16(5) A person or a dealer who has got himself registered shall be liable to pay tax during the period in which his registration certificate is effective, notwithstanding the fact that subsequently it is found that no registration certificate was necessary in his case.
- 16(6) Where,-
  - (a) any business, in respect of which a certificate of registration has been issued under this section, has been discontinued or otherwise disposed of, or has been transferred , or
  - (b) the turnover, of sales or the turnover of purchases of a registered dealer who has become liable to pay tax under section 3 has during any year not exceeded the relevant limit specified in sub-section (4) of section 3, or
  - (c) the turnover of sales of a registered dealer, other than an importer, has during the year 2013-14, not exceeded the limit, specified in sub-section (4) of section 3;

# Registration under MVAT Act

- Application for cancellation of RC >
- clause (a), shall apply in the prescribed manner & time, for cancellation of his registration to the Commissioner,
- clause (b), the dealer may apply, in the prescribed manner, for cancellation, of his registration to the Commissioner; and thereupon the Commissioner may, after such inquiry as he deems fit and subject to the rules, cancel the registration with effect from such date including any date earlier to the date of the order of cancellation as he considers fit having regard to the circumstances of the case.
- clause (c), the dealer may apply on or before the 30th September 2014 & thereupon the Commissioner may, after such inquiry as he deems fit, cancel the registration with effect from the 1st October 2014. The registration certificate cancelled under this sub-section shall be returned to the Commissioner within the prescribed time :

# Registration under MVAT Act

- Provided that, where the Commissioner is satisfied that any business in respect of which a certificate has been issued under this section has been discontinued or disposed of , and the dealer has failed to apply under clause (a) as aforesaid for cancellation of registration, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration with effect from such date as he may fix to be the date in accordance with the rules, if any, from which the business has been discontinued or disposed of or changed to a different local area, as the case may be :

# Registration under MVAT Act

- Provided further that, where the Commissioner is satisfied that any person who has voluntarily got himself registered has not commenced business within six months from the date of registration, the Commissioner may, after giving the dealer a reasonable opportunity of being heard, cancel the registration certificate with effect from such date as he may fix in accordance with the rules:
- Provided also that, the cancellation of a certificate of registration on an application or otherwise shall not affect the liability of the dealer to pay the tax including any penalty, amount forfeited and interest due for any period ending on or before the date of cancellation whether such tax including any penalty, amount forfeited and interest is assessed before the date of cancellation but remains unpaid, or is assessed thereafter.

# Registration under MVAT Act

- 16(7) The Commissioner shall, by such date as he may notify in the *Official Gazette*, prepare a list of all registered dealers and may amend the list, from time to time. Any person may make an application in the prescribed form to the Commissioner for a certified copy of any extract from the list and thereupon the Commissioner, shall furnish a copy of the extract to the applicant.
- 16(8) Save as otherwise provided in sub-section (9), a certificate of registration granted under this section and any certificate that may be granted under this Act, shall be personal to the dealer or person to whom it is granted, and shall not be transferable.

# Registration under MVAT Act

- 16 (9) Where a registered dealer,-
- (a) effects a change in the name of his business, or
- (b) is a firm, and there is a change in the constitution of the firm without dissolution thereof, or
- (c) is a trustee of a trust, and there is change in the trustees thereof, or
- (d) is a guardian of a ward, and there is a change in the guardian or termination of guardianship, or
- (e) is a Hindu Undivided Family and there is a change of Karta, or
- (f) is a private limited company which is converted into a public limited company,
- then, merely by reason of occurrence of any of the changes aforesaid, it shall not be necessary for the dealer to apply for a fresh certificate of registration and on information being furnished in the manner required by section 18, the certificate of registration shall, where necessary, be amended and any other certificate granted under the Act, rules or notifications shall also continue to be valid and be amended where necessary with effect from the appropriate date.

# Application for Registration: Rule 8

- Rule 8(1) In the case of a dealer who becomes liable to pay tax under this Act, an application for registration including voluntary registration under section 16 shall be made in Form 101 to the registering authority,—
- (a) within thirty days from the appointed day, if he holds a certificate of registration or, as the case may be, a licence granted under any of the earlier laws and which is in force immediately before the appointed day but does not hold a certificate of registration under the Bombay Sales Tax Act, 1959, immediately before the appointed day;
- (b) in the case of a dealer to whom sub-section 3(2) applies, within thirty days from the day on which his turnover of sales and of all purchases during the year commencing on the appointed day or, as the case may be, during any subsequent year, first exceeds the relevant limit specified in sub-section 3(4) >> (c) deleted
- (d) in the case of a dealer to whom sub-section (8) of section 3 applies, within sixty days of the date of succession to the business as provided in sub-section (1) of section 44 and within thirty days of the date of succession to the business as provided in sub-section (4) of section 44;>> (e) deleted

# Application for Registration

- (2) The application for registration shall be complete in all respects.
  - An application incomplete in any respect shall not be considered to be an application made under this rule and shall not be accepted.
- (3) Where a dealer has more than one place of business within the State,
  - he shall make a single application in respect of all such places specifying therein one of such places as the principal place of business and submit it to the registering authority within whose jurisdiction such principal place of business is situated:
- (4) Every application for registration shall be made, signed and verified in the case of any business engaged in by,
  - (a) an individual, by the proprietor or by a person having due authority to act on behalf of such proprietor; (b) a firm, by a partner thereof; (c) a Hindu Undivided Family, by the Karta or an adult member thereof; (d) a body corporate (including a company, a co-operative society, or a corporation or local authority) by a director, manager, secretary or the principal officer thereof, or by a person duly authorised to act on its behalf; (e) an association of individuals to which clause (b), (c) or (d) does not apply, by the principal officer of, or person managing the business; (f) any department of the Union Government or any State Government, by a person duly authorized to act on its behalf.
- (5) In the case of a firm every partner thereof shall furnish the declaration to the registering authority as provided in the form for application for registration.



# Application for Registration

- (6) The person signing and verifying an application for registration shall specify the capacity in which he does so, and shall wherever possible; give particulars of the authority vested in him for signing and verifying the application.
- (7) Every person signing and verifying an application for registration in the capacity specified in clause (a), (b), (c), (d) or (e) of sub-rule (4) other than the Director, Manager; Secretary or Principal officer of, or a person duly authorised to act on behalf of, a public limited company, public trust, corporation, local authority or any Government shall also furnish with the application a copy of his recent photograph in passport size.
- (8) The person so furnishing the photograph shall, when called upon to do so, attend before the registering authority and sign, before him, on the copy of the photograph furnished by him.

# Application for Registration

- (9) Where the engagement in business is by an individual, a firm, a Hindu Undivided Family or any unincorporated association of individuals, the name, permanent residential address and the Permanent Account Number, of such individual, each of the partners of the firm, members of the family or, as the case may be, members of the managing committee of the association and of persons having any interest in the business or the Karta of the said family shall be stated in the application for registration.
- (10) Every application for registration shall state in general terms the classes of goods in which the applicant deals and specify the nature of the business.

# Application for Registration

- (11) A dealer or a person who voluntarily applies for registration shall, be introduced by a registered dealer whose registration certificate is in force on the date of introduction and who is registered under the Act for continuous period of not less than three years immediately preceding the year in which the application is made.
- (12) A dealer or a person applying for registration, whether voluntarily or otherwise, shall have a current bank account and a Permanent Account Number, and shall submit the proof of the same to the registering authority at the time of making such application:  
Provided that nothing in this sub-rule shall apply to the persons, bodies and entities specified in paragraphs (i), (ii), (iii), (iv) and (v) of the Explanation to clause (8) of section 2.

# Practical scenario

- Trade Circular 5T/2015 [06/05/2015]
- Modification
- Trade Circular 7T/2015 [19/05/2015]
- Fees for application:
  - Voluntary: Rs.5000
  - Other cases: Rs. 500

**Registration  
under  
Central Sales Tax Act**

# Registration under CST Act

- Section 6 Liability to tax on inter-State sales.-
- (1A) A dealer shall be liable to pay tax under this Act on a sale of any goods effected by him, in the course of inter-State trade or commerce notwithstanding that no tax would have been leviable (whether on the seller or the purchaser) under the sales tax law of the appropriate State if that sale had taken place inside that State.

# Registration under CST Act

- S.7. Registration of dealers.
- (1) Every dealer liable to pay tax under this Act, shall within such time as may be prescribed for the purposes, make an application for registration under this Act to such authority in the appropriate State as the Central Government may, by general or special order, specify, and every such application shall contain such particulars as may be prescribed.

# Registration under CST Act

- S.7. Registration of dealers.
- (2) Any dealer liable to pay tax under the sales tax law of the appropriate State, or where there is no such law in force in the appropriate State or any part thereof, any dealer having a place of business in that State or part, as the case may be, may, notwithstanding that he is not liable to pay tax under this Act, apply for registration under this Act to the authority referred to in sub-section (1), and every such application shall contain such particulars as may be prescribed.



# Registration under CST Act

- S.7. Registration of dealers.
- Explanation.- For the purpose of this sub-section, a dealer shall be deemed to be liable to pay tax under the sales tax law of the appropriate State notwithstanding that under such law a sale or purchase made by him is exempt from tax or a refund or rebate of tax is admissible in respect thereof.

# Registration under CST Act

➤ (2A) Where it appears necessary to the authority so to do for the proper realisation of the tax payable under this Act or for the proper custody and use of the forms referred to in Sec. 6(2) or 6A (1) or 8(4), he may, by an order in writing and for reasons to be recorded therein, impose as a condition for the issue of a certificate of registration a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order such security as may be so specified, for all or any of the aforesaid purposes.

# Registration under CST Act

- (3) If the authority is satisfied that the application is in conformity with the provisions of this Act and the rules made there under and the condition, if any, imposed under sub-section (2A), has been complied with, he shall register the applicant & grant to him a certificate of registration in the prescribed form which shall specify the class or classes of goods for the purpose of Sec. 8(1).
- (3A) Where it appears necessary for the proper realisation of tax or for the proper custody and use of the forms , he may, at any time while such certificate is in force, by an order in writing & for the reasons to be recorded therein, require such additional security, as may be specified in the order, for all or any of the aforesaid purposes.

# Registration under CST Act

- (3B) No dealer shall be required to furnish any security under sub-section (2A) or any security or additional security under sub-section (3A) unless he has been given an opportunity of being heard.
- (3BB) The amount of security shall not exceed-
- (a) in the case of a dealer other than a dealer who has made an application, or who has been registered under sub-section (2), a sum equal to the tax payable, in accordance with the estimate of such authority, on the turnover of such dealer for the year in which such security is required to be furnished, and
- (b) in the case of a dealer who has made an application, or who has been registered in pursuance of an application, under sub-section (2), a sum equal to the tax leviable under this Act, in accordance with the estimate of such authority on the sales to such dealer in the course of inter-State trade or commerce in the year in which such security or, as the case may be, additional security is required to be furnished, had such dealer been not registered under this Act.

# Registration under CST Act

- (3C) Where the security furnished is in the form of a surety bond & the surety becomes insolvent or dies, the dealer shall, within thirty days of the occurrence of any of the aforesaid events, inform the authority granting the certificate of registration and shall within ninety days of such occurrence furnish a fresh surety bond or furnish in the prescribed manner other security for the amount of the bond.
- (3D) The authority granting the certificate of registration may by order and for good and sufficient cause forfeit the whole or any part of the security furnished by dealer-
- (a) for realising any amount of tax or penalty payable by the dealer,  
(b) if the dealer is found to have misused any of the forms referred to in subsection (2A) 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 an opportunity of being heard.

# Registration under CST Act

- (3E) Where by reason of an order under sub-section (3D), the security furnished by any dealer is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be prescribed.
- (3F) The authority issuing the forms referred to in sub-section (2A) may refuse to issue such a forms to a dealer who has failed to comply with an order under that sub-section or sub-section (3A), or with the provisions of sub-section (3C) or sub-section (3E), until the dealer has complied with such order or such provisions as the case may be.
- (3G) The authority granting a certificate of registration may, on application by the dealer to whom it has been granted, order the refund of any amount or part thereof deposited by the dealer by way of security under this section, if it is not required for the purposes of this Act.

# Registration under CST Act

- (3H) Any person aggrieved by an order passed under sub-section (2A), sub-section (3A), sub-section (3D) or sub-section ( 3G) may, within thirty days of the service of the order on him, but after furnishing the security, prefer, in such form and manner as may be prescribed, an appeal against such order to such authority (hereinafter in this section referred to as the " appellate authority") as may be prescribed:

Provided that the appellate authority may, for sufficient cause, permit such person to present the appeal,-  
(a) after the expiry of the said period of thirty days; or  
(b) without furnishing the whole or any part of such security.

- (3I) The procedure to be followed in hearing any appeal under sub-section (3H), and the fees payable in respect of such appeals shall be such as may be prescribed.
- (3J) The order passed by the appellate authority in any appeal under sub-section (3H) shall be final.

# Registration under CST Act

➤ (4) A certificate of registration granted under this section may-  
(a) either on the application of the dealer to whom it has been granted or, where no such application has been made, after due notice to the dealer, be amended by the authority granting it if he satisfied that by reason of the registered dealer having changed the name, place or nature of his business or the class or classes of goods in which he carries on business or for any other reason the certificate or registration granted to him requires to be amended; or

(b) be cancelled by the authority granting it where he is satisfied, after due notice to the dealer to whom it has been granted, that he has ceased to carry on business or has ceased to exist or has failed without sufficient cause to comply with an order under sub-section (3A) or with the provisions of sub-section (3C) or sub-section (3E) or has failed to pay any tax as penalty payable under this Act, or in the case of a dealer registered under subsection (2) has ceased to be liable to pay tax under the sales tax law of the appropriate State or for any other sufficient reason.



# Registration under CST Act

- (5) A registered dealer may apply in the prescribed manner not later than six months before the end of a year to the authority which granted his certificate of registration for the cancellation of such registration, and the authority shall, unless the dealer is liable to pay tax under this Act, cancel the registration, accordingly, and where he does so, the cancellation shall take effect from the end of the year.

# CST REGISTRATION RULES

- Rule 3
- (1) An application for registration under section 7 shall be made by a dealer to the notified authority in Form A and shall be-
  - (a) signed by the proprietor of the business, or, in the case of a firm, by one of its partners, or, in the case of Hindu undivided family, by the Karta or manager of the family, or, in the case of a company by a director, managing agent or principal officer thereof, or, in the case of a Government, by an officer duly authorized by that Government, or, in the case of any other association of individuals, by the principal officer managing the business; and
  - (b) Verified in the manner provided in the said Form A.

# CST REGISTRATION RULES

- Rule 3(2) Where a dealer has more than one place of business within a State, he shall make a single application in respect of all such places, name in such application one of such places as the principal place of business for the purposes of these rules and submit such application to the notified authority specified in respect of the principal place of business so named:
- Provided that any place so named shall not in any case be different from the place, if any, declared by him to be the principal place of business, by whatever name called, under the general Sales Tax law of the State.

# CST REGISTRATION RULES

- Rule 4
- (1) An application for registration under sub-section (1) of Section 7 shall be made not later than thirty days from the date on which the dealer becomes liable to pay tax under the Act.
- (2) An application for registration under sub-section (2) of Section 7 may be made at any time after the commencement of the Act.
- (3) A fee of rupees twenty-five shall be payable in respect of every application for registration under sub-rule (1) or sub-rule (2); and such fee may be paid in the form of court-fee stamps affixed to such application.

# CST REGISTRATION RULES

- Rule 5
- (1) When the notified authority is satisfied, after making such enquiry as it thinks necessary, that the particulars contained in the application are correct and complete & the fee referred to in rule 4(3) has been paid, it shall register the dealer and grant him a certificate of registration in Form B and also a copy of such certificate for every place of business within the State other than the principal place of business mentioned therein.
- (2) When the said authority is not satisfied that the particulars contained in the application are correct and complete, or where the fee referred to in sub-rule (3) of rule 4 has not been paid, he shall reject the application for reasons to be recorded in writing:
- Provided that before the application is rejected the applicant shall be given an opportunity of being heard in the matter and, as the case may be, of correcting and completing the said particulars for complying with the requirements of rule 4(3).

**Registration  
under  
Profession Tax Act**

# Profession Tax Act

- Important Definitions in Section 2
- (ba) "Employee" means a person employed on salary or wages, and includes--
  - (i) A Government servant receiving pay from the revenues of the Central Government or any State Government or the Railway Fund. (ii) a person in the service of a body, whether incorporated or not, which is owned or controlled by the Central Government or any State Government, where the body operates in any part of the State, even though its headquarters may be outside the State;
  - (iii) A person engaged in any employment of an employer, not covered by items (i) and (ii) above;
- (c) "employer" in relation to an employee earning any salary or wages on regular basis under him, means the person or the officer who is responsible for disbursement of such salary or wages and includes the head of the office of any establishment as well as the manager or agent of the employer;

# Profession Tax Act

- (ca) "engaged", in relation to any profession, trade, calling or employment means occupied fully or otherwise in such profession, trade, calling or employment, whether any pecuniary benefit or benefit of any nature whatsoever, actually accrues or not to a person from such occupation.
- (d) "month" means a month reckoned according to the British calendar;
- (e) "person" means any person who is engaged actively or otherwise in any profession, trade, calling or employment in the State of Maharashtra, and includes a Hindu undivided family, firm, company corporation or other corporate body, any society, club or association, so engaged, but does not include any person who earns wages on a casual basis;
- (h) "salary" or "wage" includes pay or wages, dearness allowance and all other remunerations received by any person on regular basis, whether payable in cash or kind, and also includes perquisites and profits in lieu of salary, as defined in section 17 of the Income Tax Act, 1961, but does not include bonus in any form, and on any account or gratuity;



# Profession Tax Act

- **Section 5>> Registration and enrolment.**
- (1) Every employer (not being an officer of Government liable to pay tax under section 4, or under sub-section (5) of section 10A) shall obtain a certificate of registration from the prescribed authority in the prescribed manner.
- (2) Every person liable to pay tax under this Act (other than a person earning salary or wages, in respect of whom the tax is payable by his employer), shall obtain a certificate of enrolment from the prescribed authority in the prescribed manner.
- (2A) Notwithstanding anything contained in this section and the last preceding section, where a person is a citizen of India and is in employment of any diplomatic or consular office or trade commissioner of any foreign country situated in any part of the State, such person, if liable to pay tax, shall obtain a certificate of enrolment as provided in sub-section (2) and pay the tax himself.

# Profession Tax Act

- (3) Every employer or person required to obtain a certificate of registration or enrolment shall, .....or, in respect of a person referred to in sub-section (2) or (2A), within thirty days of his becoming liable to pay tax at a rate higher or lower than the one mentioned in his certificate of enrolment, apply for a certificate of registration or enrolment, or a revised certificate of enrolment, as the case may be, to the prescribed authority in the prescribed form, and the prescribed authority shall, after making such inquiry as may be necessary within thirty days of the receipt of the application , if the application is in order grant him such certificate.
- Provided that, where on account of revision of rate of tax the person liable to pay tax is required to pay tax at a rate higher or lower than the one mentioned in the certificate of enrolment, the rate of tax mentioned in such certificate shall be deemed to have been revised accordingly on the date of such revision of rate of tax as aforesaid; and pending such person applying for a revised certificate of enrolment and grant of such certificate to him, such person shall, notwithstanding anything contained in this Act, be liable to pay tax at such revised rate.

# Profession Tax Act

- (4) The prescribed authority shall mention in every certificate of enrolment the amount of tax payable by the holder according to Schedule I, and the date by which it shall be paid, and such certificate shall, subject to the provisions of the proviso to sub-section (3), serve as a notice of demand for purposes of section 10.
- (5) Where an employer or a person liable to registration or enrolment has failed to apply for such certificate within the required time, the prescribed authority may, after giving him a reasonable " opportunity of being heard, impose *penalty of rupees five for each day of delay in case of such employer and rupees two for each day of delay in case of such person.*
- (6) Where an employer or a person liable to registration or enrolment has given false information in any application submitted under this section, the prescribed authority may, after giving him a reasonable opportunity of being heard, impose a *penalty equal to three times the tax payable under the Act.*

# Profession Tax Act

- **Rule 3**
- **Grant of certificate of registration.**
- (1) An application for a certificate of registration under sub-section (1) of section 5 shall be made in Form I. An application having places of work within the jurisdiction of different prescribed authorities shall make an application for registration separately to each such authority in respect of his place of work, within the jurisdiction of that authority.
- (2)(a) On receipt of an application for registration, the prescribed authority shall grant to the applicant a certificate of registration in Form I-A if he is satisfied that the application is in order and the necessary particulars have been furnished by the applicant.
- (2)(b) If the prescribed authority finds that the application is not in order or all the particulars necessary for registration have not been furnished he shall direct the applicant to file a revised application or to furnish such additional information as may be considered necessary. After considering the revised application and the additional information, if any, the prescribed authority shall grant a certificate of registration in Form I-A

# Profession Tax Act

- **Rule 4 > Grant of Certificate of enrollment.**
- (1) An application for a certificate of enrollment under sub-section (2) or sub-section (2A) of section 5 shall be made in Form II. An applicant having more than one place of work in the State of Maharashtra, whether within the jurisdiction of the prescribed authority or outside such jurisdiction, shall be granted only one certificate of enrollment.
- (2) Where an applicant has more than one place of work within the State of Maharashtra, he shall make a single application in respect of all such places, name in such application one of such places as the principal place of work for the purposes of these rules and submit such application to the prescribed authority in whose jurisdiction the said principal place of work is situated.
- (3)/(4) On receipt of an application in Form II, the prescribed authority may call the applicant to furnish such additional information or evidence as may be necessary for determining the amount of tax payable by him according to Schedule I to the Act. After considering the application and such additional information or evidence as may be furnished, the prescribed authority shall grant a certificate of enrollment in Form II-A.
- (5) Where the applicant has more than one place of work in the State, as many copies of the certificate shall be issued to him as there are additional places of work, in respect of the places of work other than the principal place of work.

THANK YOU