Practical Issues in Vat Audit
Report Form e-704,
by
CA Bharat Gosar
on
18th October 2014

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Who is Liable for Vat Audit in Mah.? (Sec.61,Rule 65,66 & 17A of MVAT Law)

1. **Liquor License holder liable for Audit** only if turnover exceeds prescribed limit of turnover.

2. **Entitlement Cert. holder** enjoying PSI benefits, Compulsory Audit w.e.f 1 May 2010.

3. **Other Dealers**, whose turnover of sales **or** purchases exceed Rs. One Crore (including branch transfer out) (Rs. 40 lakhs upto FY 2009-10 and 60 lacs upto 12-13) in a year is liable for VAT Audit.

   4. Vat Audit not required for Dept. of Union Govt. or State Govt., Local Authority, Railways & MSRTC w.e.f 15-8-2007.

5. Vat Audit Report in Form e-704

   (Downloaded fresh form www.mahavat.gov.in)

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Due Date for filing Audit Report (Rule 66)

1. **e-Audit Report** within 10 months and 15 days from year end.

2. **Physical filing** of Letter of Submission, e-acknowledgement copy, Part-I & Enclosures by **25 JAN 2015** with concerned LTU Officer of LTP Dealer; Desk Audit Cell, Mazgaon of other Mumbai Dealer; JC VAT (ADM) for rest of the State.

3. **Unless dealer submits physical documents by 25-01-2015, it will be deemed as report not filed. (Inst # 30)**

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New Instructions for e-filing of Report Form 704

Inst. # 4: Instructions for Return filing, apply to Schedules of Report…e.g.Works contractor filing Return form 231, then what?

Inst # 22: Differential tax liability for pending CST forms/ declaration/ certificates gets reflected at:
Part-1, Para 4, Table No.- 2 & 3, at Last column….
Whether to pay? Whether to report?

New Instructions for e-filing of Report Form 704

Inst. # 27: "Letter of Submission" by Dealer mentioning acceptance of Auditor's recommendation or non-acceptance with reason.

Details of TDS Certificates Received
(Schedule III Item 9A (f) & Part 1, Table 2, Item (vi)c)

Sr. No.	Name of Employer deducting tax	Address of Employer deducting tax	TIN No. of the employer , if any	Date of TDS Certificate	Amt of TDS as per Certificate (Rs.)
1					
2	Enter (value wise) Top 99 entries sep. & put total of others on 100th row.				
...					
...	Pending TDS Certificate? – Remark at Para 5 of Part 1				
100	Total of remaining TDS Certficates recd				
	Total				0

ANNEXURE-D (TDS Certificates Issued) Inst # 16

Details of TDS certificates Issued for Job Work dome by contractors.							
Sr. No.	Name of the Dealer (Contractor)	TIN ,if any	Turnover on which TDS made	Amt of tax to be deducted (Rs)	Amt of tax deducted (Rs)	Interest payable , if any	Amount paid (Rs.)
1				**@ 2% or 4%?**			
2							
3	Enter (value wise) <u>Top 499</u> entries sep. & put total of others on 500th row.						
4							
5	* TDS Certificate not issued ! * Tax not deducted on WC!! (Old Report v/s New Report)						
...							
500	Total of remaining certs issued						
	Total						

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COMPUTATION OF SET-OFF CLAIM ON THE BASIS OF TAX PAID PURCHASES EFFECTED FROM REGISTERED DEALERS.

SECTION-1 (Total Tax Paid on RD and URD Purchases on which Set-off is Claimed) Inst # 17						
Total tax paid purchases effected from the Local Supplier during the period under Audit (incl Capital Assets)						
Sr. No	Particulars / Tax Rate (%)	Qty in litres (in case of petroleum products)	Net purchase value	Tax Amt	Total paid	Gross Total (d+e)
a	b	c	d	e	f	g
1	5				0	0
2	20				0	0
3	12.5				0	0
4	8				0	0
9	……				0	0
	Total	0	0	0	0	0

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ANNEXURE-F (Inst # 18)

Financial Ratios and other information for the year under audit.

(a) As per Profit & Loss A/c (Inst # 18: Ratio may be given for entire business entity)

Particulars	Current Year	Previous Year	Formula / Remark
1.Gross Profit to Gross Sales (GP Ratio)		??	1) (Sales-Cost of goods sold)/ Gross Sales ={Sales-(Opening Stock + Purchases-Cl. Stock)}/ Gross Sales Or 2) Adopt from Income Tax Audit Report
2. Net Profit before tax to Gross Sales (NP Ratio)			NPBT/Gross Sales Working independently or adopt from IT Audit Report.

ANNEXURE-F
Financial Ratios and other information for the year under audit.

(Inst # 18: Ratio shall be given for Mah. State business)

(b) Information to be furnished in relation to the sales effected within/from Maharashtra

	Particulars (To be reported as determined by the Auditor)	Current Year	Previous Year	Formula / Remark
1	Ratio Net Local Sales in Maharashtra State to Total Sales (Rs) (excluding tax under VAT & CST Acts.) (% of Local Sales out of Total Sales)			(Net Local Sales)/Total Sales = (GTO-Tax-Lab-Other Income-CST Sales)/(GTO-VAT-CST)
2	Ratio Inter-State Stock Transfer from Maharashtra State to Total Sales (Rs.) * From Total Sales, whether tax collection to be reduced? * Rule 53(3) requires stock transfer ratio of **only taxable goods**			(Interstate stock transfer from Maharashtra)/ Total Sales
3	Ratio Non Sales (e.g. Job work, Labour charges, etc) receipts to Total Sales (Rs.) *Whether Commission/Interest/ Dividend Income part of Non-Sales or Total Sales ? * This ratio & ratio worked out at Sr. No. 9 aims to check applicability of Rule 53(6)			(Lab & other non Sale receipts)/ Total Sales

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ANNEXURE-F (contd…)

(b) Information to be furnished in relation to the sales effected within/from Maharashtra

Particulars (To be reported as determined by the Auditor)		Current Year	Previous Year	Formula / Remark
4	Ratio of inter-State stock transfer to net local sales to row 1 (This is ratio is similar to ratio worked out at Sr. No. 2 above; in Sr. No. 2, term "Total Sale" is used whereas in Sr. No. 4, term "Net Local Sale" is used)			(Interstate stock Transfer from 2/ Net local sales in Maharashtra from 1)
5	Ratio of net Local Sales of taxable goods to net sales from row 1 (Local Taxable Sales out of Net Local Sales)			(Net local Sales-Tax free goods)/Net sales from 1
6	Ratio of net Local Sales of tax-free goods to net sales from row 1 (Local Tax free Sales out of Net Local Sales) * Tax free sales u/s 2(30) = Sch. A goods Exempt sales u/s 8(3)/8(3B)/8(3C)/8(4) = Exempt fully or partly = Sales of taxable goods but is exempt. ???? * Rule 53(2) requires ratio of tax free goods to total goods manufactured/ traded.			Tax free goods / Net sales from 1

ANNEXURE-F (contd…)

(b) Information to be furnished in relation to the sales effected within/from Maharashtra

Particulars (To be reported as determined by the Auditor)		Current Year	Previous Year	Formula / Remark
7	Percentage of net inter-State sales excluding Export to net sales from row 1 (In Sr. No. 1, term "Net Local Sale" is used, whereas, here term "Net Sale" is used)			(OMS-Export-CST)/ Net sales as per 1 above
8	Ratio of Export sales to net sales from row 1 (In Sr. No. 1, term "Net Local Sale" is used, whereas, here term "Net Sale" is used)			Exports/ Net sales as per1 above
9	Ratio of Gross turnover of sales to Gross receipts (If this ratio is for Rule 53(6), then ratio worked out at Sr. No. 3 has a different interpretation?)			Sales/(Sales + Non sale receipts)
10	Ratio of set-off claimed to net sales from row 1 (At Sr. No. 1, term used is "Net Local Sales", whereas here term used is "Net Sales". Set-off claim is on all inputs, whereas Net sales in denominator is output qua only local sales.)			(Setoff-Reduction)/ Net sales as per 1 above

ANNEXURE-F (contd…)

(b) Information to be furnished in relation to the sales effected within/from Maharashtra

11	Ratio of Gross Tax (MVAT & CST) to turnover of net sales from row 1 (Whether "Net Sales" = "Local Sales + Interstate Sales + Exports??")			(MVAT + CST) / Net sales as per1 above
12	Ratio of Closing stock of finished goods to Net Sales from row 1 (Whether "Net Sales" = "Local Sales + Interstate Sales + Exports??")			Closing Stock of FG/ Net sales as per 1 above
13	Out of Maharashtra purchases which are capitalised			Interstate purchase of Fixed Assets which are included in purchase TO

* Definition/ Meaning of: Net Local Sales vis-a-vis Net Sales
                  Total Sales vis-à-vis Gross Sales vis-à-vis Gross Turnover of Sales
                 Non sales receipts vis-à-vis Gross Receipts.
* For Set-off Rule 53(4), ratio of material & labour involved in WC is required, which is not asked for!!
* For Set-off Rule 53(7), ratio of actual SP & MRP of Liquor sold by shop is required, which is not asked for.

ANNEXURE-F (contd…)
B) Other Information **for Maharashtra**

	Particulars(Report as determined by the Auditor)	Current Year Rs.	Previous Year Rs.	
1	**Opening stock** of **Raw Materials**			
2	Opening stock of **WIP**			
3	Opening stock of **finished goods**			
4	Opening stock of **packing material**			
5	Opening stock of **stores & spares**			
6	**Closing stock** of **raw material**			

ANNEXURE-F (contd…)
B) Other Information for Maharashtra

	Particulars (To be reported as determined by the Auditor)	Current Year Rs.	Previous Year Rs.	
7	**Closing stock** of **WIP**			
8	Closing stock of **finished goods**			
9	Closing stock of **packing material**			
10	Closing stock of **stores & spares**			
11	**Sale of Fixed Assets Rs.**			
12	**Gross receipts as defined in MVAT Rule 53(6)**			
13	**Turnover of Sales as per P&L A/c**			
14	**Turnover of Purchases as P&L A/c**			
15	**Total of non-sales income**			

ANNEXURE-G (Inst # 19)
Details of CST Declaration / Certificates received

Sr. No.	Name of Dealer who has issued Declarations or Certificates	TIN /RC No. (Put CST TIN)	Declaration/ Certificate Type	Issuing State	Declaration No.	Gross amt as per Invoice, covered by Declaration (Net of goods returned)	Amt for which Declaration recd
1			C/F/H/I/J/ E-I/E-II				
2							
3							
….	Enter (value wise) **Top 999** entries sep. & put total of others on 1000th row.						
4998							
4999							
5000	**Remaining Transactions Total**						

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Annexure H (Inst # 20)

Details of Form-H pending for local sales

Sr. No.	Name of the Dealer who has not issued Declarations or Certificates	TIN, if applicable (Put Mvat TIN)	Invoice No.	Date of Invoice	Taxable Amt (Rs.) (Net)	Rate of Tax applicable (Local Rate)	Tax Liability (Rs.)
1							0
2							0
…	Enter (value wise) <u>Top 199</u> entries sep. & put total of others on 200th row.						
….							0
…							0
200	Remaining transaction Total						
	Total				0		0

Annexure I- (Inst # 21) Pending CST Forms
(Form C/E-I/E-II/F/I/J/H   (for inter-state sales))

Sr. No.	Name of the Dealer who has not issued Declarations or Certificates	CST TIN, if any	Decl/ Certif type	Invoice No.	Invoice Date	Taxable Amt (Rs.) (Net)	Tax Amt (Rs.)	Rate of Tax applicable (Local Rate)	Amt of tax (Column 7*9*%)	Diff Tax Liab (Rs.) (Col 10-Col 8)
1	2	3	4	5	6	7	8	9	10	11
1									0	0
2	**Enter (value wise) <u>Top 999</u> entries sep. & put total of others on 1000th row.**									
….									0	0
…									0	0
5000	**Remaining transaction Total**								0	0
	Total		**(Inst # 22)**			0	0		0	0

Annexure I

-Reporting of missing declaration forms in case of 6(2) transactions.

-Special care to be taken to see that liability is not calculated twice once for pending form C and again for pending form E-I. Tax liability should be calculated on sale with reference to position of declarations in Form "C" only.

Annexure J-1 (Inst # 23)
(Section 1)- Customer wise VAT sales

Sr. No.	TIN of Customer	Net taxable Amt Rs.	VAT Amt Rs.	Gross Total Rs.
1	2	3	4	5
1				0
2				0
…	**Enter (value wise) Top 999 entries sep. & put total of others on 1000th row.**			
…	**Refer Inst # 23: Values in J1 must be given after giving effect of DN/CN**			0
…				0
5000	Remaining local transaction total **where tax is collected separately not covered above**			0
5001	Gross **local sale to Non Tin holders**			0
5002	Gross Local sales **where tax is not collected separately**			0
5003	Gross Total	0	0	0

Annexure J-2 (Inst # 23)
(Section 2)- Supplier wise VAT purchases

Sr. No.	TIN of Supplier	Net taxable Amt Rs.	VAT Amt Rs.	Gross Total Rs.
1	2	3	4	5
1	**Refer Inst # 23: Values in J2 must be given after giving effect of DN/CN**			0
2				0
…	**Enter (value wise) Top 999 entries sep. & put total of others on 1000th row.**			
5000	Remaining local transaction total where tax is paid separately not covered above			0
5001	Gross local **purchases from Non Tin holders**		?????	0
5002	Gross Local purchases **where tax is not paid separately**			0
5003	Gross Total	0	0	0
* Net Taxable Amt means – Purchase amt on which VAT is charged separately.				
* Gross Amt means – Total value of purchases from suppliers, including VAT, insurance, freight, any other charges etc. shown separately in invoices.				

Annexure- J2

-Whether to provide details of all tax paid purchase or purchase in respect of which input credit is claimed?

-To be provided net of purchase/sales return and not of rate difference.

Annexure J-5 (Inst # 23 & # 24)

(Section 5)-Customer wise transactions of Direct Exports & High Seas Sales under CST Act, 1956

Sr. No.	Name of Customer	TIN of Customer, if any	Transaction Type	Gross Total Rs.	Major Commodity
1	2	3	4	5	6
1					
2					
…	**Enter (value wise) Top 199 entries sep. & put total of others on 200th row.**				
…					
…					
200	Remaining transaction total				
201	Gross Total			0	

Annexure J-6 (Inst # 23 and #25)

(Section 6)-Supplier wise transactions under CST Act, 1956

Sr. No.	Name of Supplier	TIN of Supplier, (if any) (Put CST TIN)	Transaction Type	Any other cost of purchase	Gross Amt. Rs.
1	2	3	4	5	6
1					
2					
…	**Enter (value wise) Top 999 entries sep. & put total of others on 1000th row.**				
…					
1000	Remaining transaction total which not covered				
1001	**Purchase from Unregistered Dealers**				
1002	Gross Total				0

Annexure K (Inst # 26)

1. Inst. # 26: Determination of Sales & Purchase T.O & Reconciliation with: Returns, P&L A/c / Trial Balance / Sales - Purchase Registers

2. Inst. # 10: Sales & purchase records as per Central Excise Act/ Customs Act/ State Excise Act : Reconcile/Correlate with ST records- Report any material difference at Part 1, Para 5. (Diff.in Qty/Value/etc)

3. Appropriate disclosure necessary, if reconciliation is not possible.

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Part1-Audit & Certification

1(A). Tax Audit conducted under Income Tax Act – Name of the Auditor & <u>Date of the Report</u>.

Or

1(B). Audit conducted under Other Laws.

or

1(C). If Accounts not audited under Other Law, report as such. (Instr.# 6)

*Maintenance of Books of A/c and Data providing– Responsibility of Dealer.

*Books of A/c seized by Govt.Dept. like IT/ST/Customs/Excise/etc....??

*Books of A/c lost in Fire/Flood/Riots/etc?

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Part1-Audit & Certification contd.....

Para 2(A) Table1 –

1. Periodicity of returns to be filed?   M / Q / H

2. Returns periodicity proper?

   (Trade Cir. # 26T dt. 1-10-09: Periodicity of Returns)

h. Purchases supported by Tax Invoice. Effect of goods return & other deductions made are supported by documents. Computation of Set off is proper. (Auditor should reasonably satisfy himself about the genuineness of purchases on which set-off is claimed)

i. Sales against the declarations / certificates: All Such Forms are produced before me, Verified by me & are in conformity of the provisions related thereto?

   * Report Pending Forms at Annexure H & I.

l. Tax Invoices issued for sales are as per Law.

Part1-Audit & Certification contd…..

m. Bank statements examined & are fully reflected in books.

n. Exercised due professional care in auditing the business. Based on observations of business processes and practices, stock of inventory and Books of A/c maintained, I fairly conclude that –

-Dealer deals in commodities shown in Part-2.

-ST Records reflects true & fair view of volume & size of business.

Part1-Audit & Certification contd…..

Para 3: Report Negative Certification/ Disclaimer/ Qualifications, for any Clause from (a) to (p) of Para 2B, giving reasons: (Inst. # 7)

e.g For 2B(a): For certain transactions, all information/ explanation- not received or Trial Balance not available.

e.g For 2B (h): Genuineness of purchases- suspicious purchase.

e.g For 2B (i): All CST Forms verified- Test checked.

e.g For 2B (k): Records of goods received/ dispatched- proper & correct?

e.g For 2B(m): All Bank Statements verified & fully reflected in Books- Test checked certain entries.

e.g. For 2B(j):CQB & 2B(l): Tax Invoice issued: Not Applicable

Part1-Audit & Certification contd…..

Para 5: Material remarks/ qualifications & negative certification **having impact on tax liability** be reported here, with reasons (Inst # 7):

a) Sales of capital assets were not included while filing Returns resulting in Tax liability of Rs. -----

b) License fees received for allowing use of Trademark/ Patent were not included while filing Returns resulting in Tax liability of Rs. -----

c) Certain purchases not supported by Tax Invoice, resulting in reduction of set-off.

d) Set off reduced U/R 53( ) or set-off not eligible U/R 54( ).

e) Pending TDS Certificate for WC for Rs.------

f) Difference in Sales/ Purchases compared with records as per Customs/ Excise……(Inst. # 10)

Part 1 - TABLE 5
Main Reasons for additional Dues
(Inst # 10: Report Material Difference)

Sr No.	Reasons additional Dues (Tax & Interest thereon)	Additional Dues	
		VAT	CST
1.	Difference in Taxable Turn-over		
2.	Disallowance of Branch/ Consignment Transfers		
3.	Disallowance of Inter-state sales or Sales u/s 6 (2) of CST Act.		
4.	Disallowance of High-seas Sales		

Part 1 – TABLE 5
Reasons for additional Dues and Refund (Tax and interest thereon) (contd…)

5.	Additional Tax liability on account of Non-production of Declarations and Certificates.		As accepted by Dealer to pay Differential Tax which is not part of Annexure I
6.	Computation of Tax at Wrong rate		
7.	Excess claim of Set-off or Refund.		
8.	Disallowance of other Non-admissible claims. (Please Specify) (a) e.g Credit Note for Discount/ GR not allowable (b)_____ (c)_____		
9	TOTAL DUES PAYABLE / Refundable		
10	Interest payable (from due date of Return to the date of Audit) Whether it is interest u/s 30(2) or 30(3) ?		
11	TOTAL AMOUNT PAYABLE OR REFUNDABLE		

Part 1 – Pt. 5. Dealer has been recommended under MVAT / CST to:-

i.   Pay Additional Tax liability of Rs.-------(Rupees ---), or

ii.   Pay back excess refund recd of Rs. ---(Rupees --), or

iii.   Claim additional refund of Rs.-----(Rupees ---), or

iv.   Reduce the claim of refund by Rs. ----- (Rupees --), or

v.   Reduce tax liability by Rs. ------ (Rupees ----------), or

vi.   Revise closing balance of CQB by Rs.--- (Rupees ----)

vii.   Pay interest under-section 30(2) Rs………Rs………..

viii.   Pay interest under-section 30(4) Rs………Rs………..

Whether to Revise Return or only to pay tax?

(Revise Return as per Trade Circular # 9T dt. 21-3-09)

(Revise Return u/s 20(4)(b) within 30 days of 15th January, can be revised **only once)**

(Inst. # 27: Dealer may accept such advise, Partly or Fully as mentioned in 'Letter of Submission')

Part I- Para 7

• Issue involved in case of dealer or similar issue involved in case of other dealer, where decision given by Tribunal is against the Commissioner/ State Government and Appeal is preferred by the Government which is pending before High Court/Supreme Court.

• Vat on service tax: Tribunal Judgement of M/s. Nikhil Comfort.

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Physical documents to be submitted upto 25th January, 2015

- Submission letter in prescribed form to be signed by the dealer with rubber stamp.

- Print out of Part-I in to be signed by Auditor with rubber stamp.

- Acknowledgment of uploaded Form 704 to be signed by the dealer as well as Auditor with rubber stamp.

INFORMATION AVAILABLE ON WEBSITE OF DEPARTMENT
(Tool For Vat Audit)

1. **Text of Act, Rules Notificastion and Rate Schedule**
2. **Determation of Disputed Question (DDQ's)**
3. **Trade Circulars**
4. **List of Non Genuine Dealers (Hawala dealers)**
5. **List of Short filer/non filer**
6. **List of Non filer of Form 704**

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7. Tax Information Exchange System (GOI)"
   TINXSYS"
8. Know Your Tin
9. List of References
10. List of Dealers Against Whom Police Complaint is filed
11. Return Periodicity
12. Tax Calendar
13. Manual of Procedures

Penalty for default in filing Audit Report (Sec.61)

1. Proviso to Sec.61(2) deleted. So no grace period of one month.

2. **Late** / **Failure** to furnish Audit Report, Commissioner **may** levy Penalty **equal to** 0.1% of total sales [S.61(2)]

   * Discretion qua levy…..qua quantum??

   Addl. CST Mumbai vs Ankit International (15-9-2011) 46 VST 1 (Bom) Justice Dr. D.Y. Chandrachud & A.A. Sayed.

3. Knowingly furnishing **Incomplete Report**, Commissioner **may** levy Penalty @ 0.1% of Total Sales [S.61(2A) w.e.f 1 May 2011]

   * *Initial onus on Department to prove mens rea; then on Dealer to prove that default was for sufficient cause

   * *Zenith Computer Ltd vs State of Mah. (2011) 38 VST 168 (Bom); Indoswe Engineers Pvt Ltd vs State of Mah. (1996) 101 STC 177 (Bom); Bharjatiya Steel Ind. Vs CST, UP. (2008) 13 VST 514 (SC)*

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* Best Wishes for Vat Audit and Happy Diwali*

Thank you all…..
* Bharat Gosar *