

## **Delhi Value Added Tax Rules, 2005**

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## **Delhi Value Added Tax Rules, 2005**

### **CHAPTER 1 PRELIMINARY**

#### **1. Short title and commencement :-**

- (1) These rules may be called the Delhi Value Added Tax Rules, 2005
- (2) They shall come into force on such date as the Government may, by notification in the official Gazette, appoint:  
Provided that different dates may be appointed for different provisions of these rules and any reference in any such provision to the commencement of these rules shall be construed as a reference to the coming into force of that provision.

#### **2. Definitions :-**

- (1) In these rules, unless the context otherwise requires,-
  - (a) "Act" means the Delhi Value Added Tax Act, 2004(Delhi Act 3 of 2005);
  - (b) "form" means a form appended to these rules;
  - (c) "Schedule" means a Schedule appended to the Act;
  - (d) "section" or "sub-section" means a section or sub-section of the Act.
- (2) Words and expressions defined in the Act and used but not

defined in these rules have the same meaning as assigned to them in the Act.

(3) Unless otherwise specified in these rules-

(i) words importing the masculine gender shall include the feminine gender;

(ii) words in singular shall include their plural and vice versa;

(iii) expressions referring to "writing" shall include printing, typing, lithography, photography and other methods of representing or reproducing words in a visible form;

(iv) with reference to a person who is unable to sign his name, the words "signature" shall include his "thumb impression" or other mark duly attested to signify his signature.

(v) Signature shall include digital signature.

(4) In these rules, unless the context otherwise requires,-

(a) "address for service" means the address determined in accordance with rule 21

(b) "appropriate Government treasury" means Pay and Accounts offices of Reserve Bank of India or State Bank of India, or such other Scheduled bank within the meaning of the Reserve Bank of India Act, 1934 (2 of 1934) or any other bank as may be notified by the Commissioner;

(c) "collector" means the Collector as defined in the Delhi Land Reforms Act, 1954 (Act No. 8 of 1954);

(d) "quarter" means the periods of three calendar months -

(i) April 1 to June 30;

(ii) July 1 to September 30;

(iii) October 1 to December 31; and

(iv) January 1 to March 31.

(5) For the purposes of clause (ra) of sub-section (1) of section 2, "manufacture" shall not include the following processes or modes of manufacture, namely:-

(i) dispensing of medicines according to prescription of medical practitioners;

(ii) cutting of paper from reels into reams;

(iii) recovering of jewels and other components from old jewellery and ornaments;

(iv) conversion of milk into khoa;

(v) rolling of bidis by hand and without the use of any mechanical aid or device;

(vi) dismantling of old motor vehicles;

(vii) killing, dressing and freezing chickens;

(viii) removal of peanuts from the shell;

- (ix) collecting of bristles, boiling and washing them with soap and other chemicals, sorting out according to their sizes and colouring and then tying them in separate bundles of different sizes and clipping them for uniformity of size;
- (x) repairing, cleaning and oiling of watches, clocks or time-pieces;
- (xi) boiling of butter into ghee or separation of cream from milk or ghee from curd;
- (xii) assembling of lenses and other part of spectacles according to the prescription of ophthalmologists;
- (xiii) boiling of milk and adding sugar to it; and
- (iv) making of garlands and bouquets from fresh flowers.

## **CHAPTER 2 INCIDENCE AND LEVY OF TAX**

### **3. Works contract :-**

(1) In case of turnover arising from the execution of the works contract, the amount representing the taxable turnover shall exclude the charges towards labour, services and other like charges subject to the dealers maintaining proper records such as invoice, voucher, challan or any other document evidencing payment of charges towards labour, services and other like charges to the satisfaction of the Commissioner.

(2) For the purpose of sub-rule (1), the charges towards labour, services and other like charges shall include-

- (i) labour charges for execution of works;
- (ii) charges for planning and architects fees;
- (iii) charges for obtaining on hire or otherwise machinery and tools used for the execution of the works contract;
- (iv) cost of consumables such as water, electricity, fuel, etc. used in the execution of the works contract the property in which is not transferred in the course of execution of a works contract;
- (v) cost of establishment of the contractor to the extent it is relatable to supply of labour and services;
- (vi) other similar expenses relatable to supply of labour and services;
- (vii) profits earned by the contractor to the extent it is relatable to supply of labour and services subject to furnishing of a profit and loss account of the works sites: Provided that where amount of charges towards labour, services and other like charges are not ascertainable from the books of accounts of the dealer, the amount of such charges shall be calculated at the percentages specified in the following table :-

**Table Percentages For Works Contracts**

	<b>Type of contract</b>	<b>Labour, service and other like charges as percentage of total value of the contract</b>
1	Fabrication and installation of plant and machinery.	Twenty five percent
2	Fabrication and erection of structural works of iron and steel including fabrication, supply and erection of iron trusses, purloins and the like.	Fifteen percent
3	Fabrication and installation of cranes and hoists.	Fifteen percent
4	Fabrication and installation of elevators (lifts) and escalators.	Fifteen percent
5	Fabrication and installation of rolling shutters and collapsible gates.	Fifteen percent
6	Civil work like construction of buildings, bridges, roads, dams, barrages, canals and diversions.	Twenty five percent
7	Installation of doors, doorframes, windows, frames and grills.	Twenty percent
8	Supply and fixing of tiles, slabs, stones and sheets.	Twenty percent
9	Supply and installation of air conditioners and air coolers.	Fifteen percent
10	Supply and installation of air conditioning equipment including deep freezers, cold storage plants, humidification plants and de-humidors.	Fifteen percent
11	Supply and fitting of electrical goods, supply and installation of electrical equipments including transformers.	Fifteen percent
12	Supply and fixing of furniture and fixtures, partitions including contracts for interior decoration and false ceiling.	Twenty percent
13	Construction of railway coaches and wagons on under carriages supplied by Railway.	Twenty percent
14	Construction or mounting of bodies of motor vehicle and construction of trailers.	Twenty percent
15	Sanitary fitting for plumbing and drainage or sewerage.	Twenty five percent
16	Laying underground surface pipelines, cables or conduits.	Thirty percent
17	Dyeing and printing of textiles.	Thirty percent
18	Supply and erection of weighing machines and weighbridges.	Fifteen percent

19	Painting, polishing and white washing.	Thirty percent
20	All other contracts not specified from Sl. No. 1 to 19 above.	Twenty percent

#### **4. When turnover arises in a tax period :-**

For the purposes of sub-section (4) of section 12, the amount of turnover or turnover of purchases arising in the tax period in the case of a sale or purchase occurring -

- (a) by means of an installment sale or hire purchase of goods made in the tax period, is the total amount of the sale price that will be due and payable under the agreement, including the amount of any option fee paid or that may be payable;
- (b) by the transfer of a right to use goods, not being a hire purchase agreement or installment sale agreement, is the proportion of the sale price that is due and payable during the relevant tax period;
- (c) by means of transfer of property in goods (whether as goods or in some other form) under a works contract executed or under execution in the tax period, is the consideration received or receivable by the dealer for such transfer of property in goods (whether as goods or in some other form) during the relevant tax period.

#### **5. Composition Scheme :-**

- (1) A dealer making an application for registration under section 19 and opting for payment of tax under sub-section (1) of section 16, shall specify his intention to pay tax under section 16.
- (2) A dealer paying tax at the rates specified in section 4 may elect to pay tax under section 16 only from the beginning of the following year by making an application in Form DVAT-01 within thirty days from the first day of the beginning of the following year.
- (3) A person who is eligible under sub-section (3) of section 16 and elects to pay tax under sub-section (1) of section 16 shall, within thirty days of the commencement of the Act, file an application in Form DVAT-02, specifying his intention to pay tax under section 16 and give particulars of trading stock, raw material, packaging material and finished goods held on the date of commencement of the Act and on which he is liable to pay tax under sub-section (6) of section 16.
- (4) If a dealer, who has elected to pay tax under sub-section (1) of section 16, desires to reverse his option under sub-section (2) of

section 16, he shall file an application in Form DVAT-03 within thirty days from the first day of the beginning of the following year.  
(5) A dealer who is covered by sub-section (10) of section 16 shall give intimation to the Commissioner in Form DVAT 03 A.

**5A. Registration, furnishing of security, payment of tax and assessment of casual trader :-**

(1) A casual trader shall, at least three days before commencing his business in Delhi, make an application in Form DVAT-4A in person or through his authorised agent to the Commissioner.

(2) The Commissioner shall, after registration is granted, issue him a registration certificate in Form DVAT-6A along with as many Forms DVAT-34 and DVAT 35 as are reasonably required, against payment of the price thereof, if any.

(3) Every casual trader shall furnish a return in Form DVAT-16A which shall be accompanied with the proof of payment of tax and unused Forms DVAT-34 and DVAT 35, if any.

**CHAPTER 3 TAX CREDIT**

**6. Apportionment of tax credit :-**

Where a dealer has purchased goods intended to be used for the purposes specified in sub-section (1) of section 9 and the goods are subsequently used fully or partly for other purposes as specified in sub-section (4) of section 9 or the goods or goods manufactured out of such goods are exported from Delhi by way of transfer, the tax credit claimed shall be reduced under section 10, in the following manner:-

(i) in case commodity-wise accounts are maintained by the dealer clearly correlating use of goods for making sales under sub-section (1) of section 9 and for other purposes, the tax credit shall be reduced by the amount of input tax paid on the purchases used for such other purposes.

(ii) in case commodity-wise accounts are maintained by the dealer clearly correlating use of goods for making sales referred in sub-section (1) of section 9 and for transfer of goods or goods manufactured out of such goods, the tax credit shall be reduced in the manner specified in rule 7.

(iii) in case commodity-wise accounts are not maintained by the dealer clearly correlating use of goods for making sales referred to in clause (i) above, the reduction of tax credit shall be calculated on



the basis of the purchase price of such goods immediately preceding their use for other purposes or their fair market value, whichever is higher.

(iv) in case commodity-wise accounts are not maintained by the dealer clearly correlating use of goods for making sales referred to in clause (ii) above, the reduction of tax credit shall be calculated on the basis of the purchase price of such goods immediately preceding to their transfer or their fair market value, whichever is higher, and the input tax credit shall be reduced in the manner specified in rule 7.

## **7. Reduction of tax credit :-**

(1) For the purposes of sub-section (6) of section 9 and sub-section (3) of section 10, the tax credit shall be reduced by the following prescribed percentages:-

(a) in the case of goods specified in the Second Schedule 100 percent

(b) in the case of goods specified in the Third Schedule 100 percent

(c) in the case of goods specified in the Fourth Schedule 20 percent

(d) in the case of any other goods specified in clause (e) 32 percent of sub-section (1) of section 4

(2) Where a dealer has transferred any goods in the circumstances specified under subsection (6) of section 9 and has made a reduction of tax credit by the prescribed percentage, he shall be entitled to claim the tax credit so reduced when he brings such goods back into Delhi for sale on which tax is payable under section 3 or for sale in the course of inter-state trade or commerce or for sale outside Delhi or for sale in the course of exports out of the territory of India, subject to the condition that the goods brought back to Delhi are the same goods as originally transferred.

(3) Where any goods or goods manufactured out of such goods are lost or destroyed, the dealer shall not be eligible to claim tax credit on such goods and the credit taken in any earlier tax period shall be reversed in the tax period in which goods are claimed to have been lost or destroyed.

(4) For the purpose of sub-section (9) of section 9, the prescribed percentage of reduction of tax credit shall be 4 percent.

## **7A. Adjustment to tax :-**

Where adjustment of tax arises under clause (e) of sub-section

(1) of section 8 by reason of the whole or part of the price owed by

the buyer for the purchase of goods having been written off by the dealer as bad debt, the dealer shall make such adjustment to the extent of the tax on the price written off as bad debt provided such price has been written off in his books of accounts and the price so written off has also been claimed by the dealer as deduction under section 36 of the Income Tax Act, 1961 (43 of 1961):

Provided that where the price so written off relates to the sale of goods taxable at different rates of tax specified under section 4, the adjustment shall be made by allocating the price so written off to various amounts outstanding in the following order:-

- (i) any interest amount due and outstanding;
  - (ii) sale price of any exempted goods;
  - (iii) sale price of goods taxable at the rate of 1 percent;
  - (iv) sale price of goods taxable at the rate of 4 percent;
  - (v) sale price of goods taxable at the rate of 12.5 percent; and
  - (vi) sale price of goods taxable at the rate of 20 percent
- Provided further that where the price so written off is recovered subsequently either in whole or part, it shall be deemed to be the sale of goods by him in the tax period in which such price is recovered and the dealer shall make an adjustment in calculating the tax payable for the same tax period by allocating the recovered amount to the amounts stated above in the reverse order.

## **8. Treatment of stock brought forward during transition :-**

For the purposes of subsection (2) of section 14, the amount of tax borne shall be-

- (a) where the dealer holds an invoice issued by a dealer registered under the Delhi Sales Tax Act, 1975 (43 of 1975) in respect of the opening stock which separately states the amount of tax paid under the Delhi Sales Tax Act, 1975 (43 of 1975) at the point specified under section 5 of the said Act, the amount of such tax as is allocable to the opening stock; or
- (b) in any other case, an amount calculated according to the formula-

$$F \times P \times 75\%$$

where -

F = the tax fraction,  $(r/r+100)$  [where r is the rate of tax under the Delhi Sales Tax Act, 1975 (43 of 1975) applicable as on March 31, 2005 to the opening stock].

P = the price paid for the opening stock.

## **9. Credit on second hand goods purchased by a registered**

## **dealer from a resident seller not registered under the Act :-**

(1) No input tax credit shall be claimed on second hand goods purchased by a registered dealer from a resident seller who is not registered under the Act, unless the registered dealer has in his possession adequate proof of the amount paid for such goods in the form of an invoice or receipt signed by such resident seller containing the following, namely -

- (a) the description of the goods;
- (b) the amount paid for the goods;
- (c) the name and address of the resident seller; and
- (d) the Permanent Account Number (PAN), if any, of the resident seller.

(2) No input tax credit shall be claimed on second hand goods under section 15 without production of original tax invoice.

## **10. Document for availing of credit :-**

(1) A dealer requiring to furnish statement of trading stock and raw material under clause (c) of sub-section (1) of section 20 shall furnish the same in Form DVAT 19 within seven days of his registration taking effect.

(2) No input tax credit shall be allowed on the trading stock or raw materials held by a dealer who is registered or re-registered at the time when such registration or re-registration takes effect, unless the dealer has in his possession adequate proof of the amount of input tax paid in the form of a tax invoices issued by a registered dealer to the dealer claiming the tax credit.

## **CHAPTER 4 REGISTRATION, APPROVAL AND PERMISSION**

### **11. Applications - general :-**

(1) Every application under the Act for registration as a dealer or for the amendment or cancellation thereof, shall -

- (i) be furnished in the forms prescribed in these rules;
- (ii) contain the information and particulars required in the relevant form;
- (iii) be signed and verified by the person or authority mentioned in section 29 and in the manner specified in the relevant form;
- (iv) be accompanied by all documents mentioned in the form;
- (v) be accompanied by proof of payment of the fee as prescribed in Annexure 1 to these rules; and

(vi) be accompanied by security of the prescribed amount.

(2) Where no form is prescribed in these rules, the application may be made in writing served on the Commissioner:

Provided that the Commissioner may require that the application be re-submitted in a form or manner as may be specified by the Commissioner.

(3) The Commissioner shall issue a receipt acknowledging receipt of an application at the time the application is furnished.

## **12. Application for registration as a dealer :-**

(1) A dealer who is required to apply for registration under section 18 shall make an application for registration to the Commissioner in Form DVAT-04 within a period of thirty days from the date of his becoming liable to pay tax under the Act and shall pay the filing fee as prescribed in Annexure 1 to these rules.

(2) The dealer shall provide such further information as may be required by the Commissioner.

## **13. Processing application for registration as a dealer :-**

Every notice issued to an applicant under clause (b) of sub-section (3) of section 19 shall be in Form DVAT-05 and shall be served on the applicant in the manner specified in rule 62.

## **14. Certificate of registration :-**

(1) The Commissioner, after due verification of the application and the supporting documents, shall grant a certificate of registration in Form DVAT-06. The Commissioner shall grant single registration to a dealer who has within Delhi, more than one place of business.

(2) A dealer shall be deemed to be registered under the Act from the date of the receipt of his application for registration as specified in sub-rule (1) above or from the date the dealer has become liable to pay tax except where any other date has been specified in the certificate of registration.

(3) Every registered dealer shall retain and prominently display the certificate of registration at its principal place of business and a certified copy thereof at all other places of business in Delhi.

(4) A registered dealer may obtain from the Commissioner, on payment of the fee prescribed in Annexure 1 to these rules, a duplicate of the certificate of registration where the original has been lost, destroyed or defaced or a certified copy or copies on

payment of the fee prescribed in Annexure 1 to these rules for the purpose specified in sub-rule (3).

(5) The Commissioner shall issue a fresh certificate of registration under the Act to every dealer who is registered by virtue of section 24.

(6) Pending the issue of the certificate pursuant to sub-rule (5), a certificate of registration issued to a dealer who is registered under the Delhi Sales Tax Act, 1975 (43 of 1975) or the Delhi Sales Tax on Works Contract Act, 1999 (9 of 1999) or the Delhi Sales Tax on Right to Use Goods Act, 2002 (13 of 2002) as in force in Delhi immediately before the commencement of the Act shall be sufficient evidence that the person is registered for the purposes of section 19.

### **15. Amendment of registration :-**

(1) An application for amendment to an existing registration shall be made in Form DVAT-07.

(2) Any amendment to the existing registration as a dealer shall be intimated by the Commissioner in Form DVAT-08.

### **16. Cancellation of registration :-**

(1) An application under sub-section (2) of section 22 for cancellation of registration as a dealer shall be made in Form DVAT-09 within thirty days of the following:-

(a) in cases where a registered dealer has ceased to carry on any activity which would entitle him to be registered as a dealer under the Act, from the date of cessation of the activity;

(b) in cases where an incorporated body is closed down or otherwise ceases to exist, from the date of closure or cessation of existence;

(c) in cases where the owner of a proprietorship business dies leaving no successor to carry on the business, from the date of death of the owner of the proprietorship business;

(d) in case of a firm or an association of persons being dissolved, from the date of its dissolution;

(e) in case a registered dealer has ceased to be liable to pay tax under the Act, from the date on which he ceased to be so liable.

(2) Every registered dealer who applies for cancellation of his registration shall surrender with his application the original certificate of registration and all certified copies thereof.

(3) The application shall specify the date from which the dealer

desires the cancellation of registration to take effect:

Provided that unless the Commissioner by notice, in writing, served on the dealer notifies another date from which registration shall be cancelled, the dealers registration shall cease on the date specified by the dealer.

(4) Where the Commissioner proposes to cancel the registration of a dealer under sub-section (1) of section 22, the Commissioner shall serve upon the person a notice in Form DVAT- 10 in the manner prescribed in rule 62.

(5) Every registered dealer whose registration is cancelled under sub-section (1) of section 22, shall deliver to the Commissioner the certificate of registration by the date stated in Form DVAT-10:

Provided that where a dealer has made an objection to the Commissioner under section 74 against the cancellation of the registration, the dealer may retain the certificate of registration pending resolution of the objection.

(6) In case of cancellation of registration, the Commissioner shall specify in a notice in Form DVAT-11, the date from which the cancellation of the registration takes effect. Upon cancellation of registration, the dealer shall be required to comply with the requirements specified by the Commissioner either in the notice issued in Form DVAT-11 or by a separate communication to be served in the manner specified in rule 62.

(7) Notwithstanding the cancellation of registration, all the proceedings pending or to be initiated shall not abate.

### **17. Publication of particulars of cancelled certificates of registration :-**

For the purposes of sub-section (8) of section 22 the Commissioner shall publish the particulars of dealers whose registration has been cancelled in the following form:-

(1)	(2)	(3)	(4)
Name and address of the dealer	Name of the Proprietor / Manger / Partners / Directors	Registration number	Date of effect of cancellation of registration

### **18. Declaration of name of manager of business :-**

(1) The information required under section 95 shall be intimated to the Commissioner in Form DVAT-04 at the time of application for

registration.

(2) Where there is any change in the person or persons named in Form DVAT-04 as manager or managers of business under section 95 on account of death or otherwise, the registered dealer or his legal representative, as the case maybe, shall inform the Commissioner within thirty days from the date of such change in Form DVAT-07 and also provide the name of the person or persons who shall be manager or managers thereafter.

**19. Nomination of principal place of business in the case of a dealer having more than one place of business in Delhi :-**

(1) Where a dealer has within Delhi, more than one place of business (hereinafter referred to as "branches"), he shall -

(a) nominate one of such branches as the principal place of business in Delhi; and

(b) inform the Commissioner in Form DVAT-04 of such nomination at the time of application for registration.

(2) When the dealer changes his designated principal place of business, the dealer shall inform the Commissioner within thirty days from the change in Form DVAT-07 and shall intimate the Commissioner of the location of the new principal place of business.

**20. Notification of address for service of notices :-**

(1) Every person who applies for registration under the Act as a dealer shall, in the application, give an address in Delhi for service of notices, orders and other correspondence.

(2) Every person who has given an address for service and who subsequently changes his address shall, within thirty days after the change, intimate the Commissioner, in writing, his new address in Delhi in Form DVAT-07.

(3) Where a person has changed his address and has failed to give to the Commissioner notice in Form DVAT-07 of his new address in Delhi for service, the service effected at the last known address shall be deemed to be valid service under the Act or these rules and such person shall not be permitted to plead such change of address as a defence in any proceedings (whether civil or criminal) instituted against him under the Act or these rules.

(4) The address for service last given to the Commissioner by any person shall, for all purposes of the Act and these rules, be his address for service.

## **21. Register of Dealers :-**

The Commissioner shall maintain a "Registration Register" in such form as he may deem fit, incorporating therein the complete particulars of the dealers registered under the Act including particulars of any amendments to and cancellation of, registration of the dealers under the Act, which will be available for inspection on payment of fee prescribed in Annexure 1 to these rules.

## **CHAPTER 5 SECURITY**

### **22. Person and the required amount of security to be furnished :-**

(1) A person applying for registration under the Act shall furnish security not exceeding one lakh rupees along with the application for registration: Provided that the amount of the security shall be reduced by the amount stated below subject to a total maximum reduction of fifty thousand rupees, in case the person produces the following documents:-

- (a) last paid electricity bill in his name Ten thousand rupees.
- (b) last paid telephone bill in his name Five thousand rupees.
- (c) Permanent Account Number (PAN) issued under Ten thousand rupees. the Income Tax Act, 1961 (43 of 1961)
- (d) any document as proof of ownership of principal Thirty thousand rupees. place of business
- (e) any document as proof of ownership of residential Twenty thousand rupees property
- (f) notarised photocopy of the passport of proprietor / Ten thousand rupees. managing partner or managing director

(2) A person ordered to pay security under sub-section (4) of section 60 for de-sealing or release of any premises including the office, shop, godown, box, locker, safe, almirah or other receptacle, shall furnish security of the amount ordered by the Commissioner before seeking de-sealing or release of the premises.

(3) A person offering to pay security under sub-section (5) of section 61 for release of any goods vehicle, goods and documents seized shall furnish security of twice the amount of tax payable if the goods were sold in Delhi, before seeking release of goods vehicle, goods and documents seized.

(4) The Commissioner may require a dealer claiming refund under section 38 to furnish security of the amount not exceeding the amount of refund claimed before the grant of refund.



### **23. Manner in which security may be furnished :-**

(1) The tender of an amount or an asset or the undertaking of a liability as security for any purpose of the Act shall be made in Form DVAT-12.

(2) Subject to sub-rule (3) of this rule, where a person is required or offers to furnish security for any purpose of the Act, the security shall be acceptable only if it is made in any one of the forms listed in the Table below, unless the Commissioner prescribes a particular form in which the security shall be acceptable:

Provided that security may be offered partly in one form and partly in another.

(3) The security required to be furnished by a person under clause (b) of sub-section (5) of section 61, shall be, at least, fifty percent in the form specified as item no. 1 of the Table below, and balance may be in any of the forms specified in Table below.

(4) A security, which does not meet the conditions specified in the Table below, shall not be treated as the furnishing of security for the purposes of the Act.

(5) The security shall be accepted only for the amount prescribed or ordered.

(6) If the security is furnished in any of the forms referred to in items 2 to 7 (inclusive) in the Table below, a document transferring the title to the security shall be executed in the name of the President of India and the transfer recorded and noted in the books of the issuing authority and the person offering the security shall be required to pay stamp duty and registration fee as prescribed under the relevant law.

(7) The Commissioner shall maintain a complete account of the securities deposited, forfeited or refunded in Securities Register in such form and in such manner as the Commissioner deems fit.

**Table – Forms of Security**

	Form of security	Conditions	Amount of security
1	Cash	The Government will not pay any interest on security deposit, held in the form of cash.	Amount of cash deposited in appropriate Government treasury.
	Promissory notes, stock certificates of		These securities shall be accepted at five per cent below their market

2	any State Government		price as on date of submission or at their face value, whichever is less.
3	Post Office Cash Certificates, Treasury Savings Deposits, National Plan Savings Certificates, 12 Year National Defence Certificates, 10 Year National Defence Certificates.	These certificates shall be formally transferred to the (President of India) and shall be accepted with the sanction of the Post Master of the office of registration.	Surrender value at the time of tender
4	Post Office Savings Bank Pass Books.	A pass book, for a deposit made under the Post Office Savings Bank Rules may be accepted as security provided that the dealer has signed and delivered to the Post Master a letter in the prescribed form as required by the said rules. The pass book shall be sent to the post office as soon as possible after the 15th June of each year so that necessary entries of interest may be made therein.	Amount deposited
5	Municipal debentures or Port Trust Bonds and/or Debentures issued by the Government or a financial corporation.		These securities shall be accepted at five per cent below the market price as on date of submission or Government or a financial corporation.
6	Bonds or debentures issued by corporate bodies guaranteed by the Central or any State Government as regards the payment of principal and interest or as regards principal only.		These securities shall be accepted at five per cent below the market price or face value, whichever is less.

7	Deposit receipts of any authorised bank.	<p>The deposit receipts shall be made in the name of the dealer but pledged to the President of India. The Bank shall agree that on receiving a signed treasury challan from the Commissioner and withdrawal order duly signed by the Commissioner, the bank will at once remit the amount in full or in part, as may be specified in the order, into the treasury and send the receipted challan to the Commissioner. The dealer will agree in writing to undertake the risk involved in the investment.</p>	The amount shown on the deposit receipt.
	Mortgage of immovable property,	<p>Mortgage bond in writing shall be executed in favour of the President of India and registered according to law of registration at the cost of the dealer. The property mortgaged shall be free from all encumbrances. Personal surety shall be in the form of a personal bond with one or two guarantees acceptable to the Commissioner. This form of security shall be accepted subject to such conditions as may be laid down from time to time by the Commissioner by a general or special</p>	Amount stated in the relevant document as the

8	hypothecation or pledge of movable property, personal surety.	order. The liability of the surety or guarantor shall be co-extensive with that of the dealer for the period the contract of surety or guarantee remains in operation notwithstanding the fact that the assessment proceedings against the dealer under Chapter VI of the Act for the period are initiated before or after the said period. The liability of the surety or guarantor shall be enforced and executed according to the law for the recovery as arrears of land revenue referred to in section 44.	maximum amount recoverable under the mortgage, hypothecation, pledge, or personal surety.
9	Bank guarantee.	The bank must be a Scheduled Bank. The bank guarantee shall be initially valid for a period of one year and shall be kept valid till such time the Commissioner may require.	The amount stated in the relevant document as the maximum amount recoverable under the bank guarantee.

#### **24. Safe-keeping, retention and return of security :-**

(1) Post Office Savings Bank pass books, deposit receipts of banks, security bonds and agreements, promissory notes or stock certificates tendered as security shall be kept in safe custody by the Commissioner or an officer nominated by him in this behalf.

(2) Security tendered in any form shall be retained until the Commissioner orders that there is no further necessity for keeping it.

(3) Where a person has ceased to be a dealer or undertakes any other activity for which security under the Act might not be

required, the person may apply for the return, release or discharge of the security in Form DVAT-13.

(4) A person may object in the manner provided in section 74 if the Commissioner has failed within four months to return, release or discharge the security: Provided that where the person has sought a refund in cash pursuant to section 38 at any time, the person shall not request the Commissioner to return, release or discharge the security on or before 30th November of the year succeeding the year which includes the tax period in respect of which the refund is claimed.

(5) No security shall be returned, released or discharged to the person or otherwise disposed of except in accordance with the terms of the security bond or agreement and while returning, releasing or discharging the security to the person, unless the person entitled to the security gives an acknowledgment duly signed and witnessed setting forth therein the full particulars of the security released, returned or discharged.

## **25. Forfeiture of security :-**

(1) Where the Commissioner proposes to forfeit a security in full or in part or is of the view that the security furnished is insufficient, he shall serve upon the person who furnished the security, a notice in Form DVAT-14.

(2) Where the Commissioner is not satisfied with the explanation given in response to the notice served upon in sub-rule (1), he shall pass an order in Form DVAT-15 forfeiting the security in part or in full and requiring the person to make good the deficiency of security.

(3) Where security is furnished in a form other than cash or bank guarantee and the security is forfeited in full or in part or is rendered insufficient, the Commissioner shall, in the notice, allow the person affected, to pay the forfeited or insufficient amount in cash within the time specified in the notice.

(4) If the amount to be forfeited or rendered insufficient is not deposited in cash pursuant to sub-rules (2) and (3) of this rule, the Commissioner shall make an application to the Collector as defined in the Delhi Land Reforms Act, 1954 (hereinafter referred to as "Collector") to recover the said amount from the person, his surety or guarantor as arrears of land revenue.

(5) The Commissioner shall furnish to the Collector, the names and addresses of the person, his surety or guarantor and the amount to

be recovered and thereupon the Collector shall proceed to recover the amount from the person or his surety or guarantor or from both as arrears of land revenue.

(6) Where security has been provided in the form of a pledge of goods, the Commissioner may sell the goods following the procedure prescribed in rule 41 to the extent applicable.

(7) Where the security furnished by any person is forfeited in whole or is rendered insufficient, the person shall make up deficiency in any of the forms referred to in the Table under rule 23, as may be required by the Commissioner, within fifteen days from the date of service of order in Form DVAT- 15.

## **CHAPTER 6 TAX PERIOD AND TAX RETURNS**

### **26. Tax Period :-**

(1) Subject to sub-rules (2) and (3) of this rule, the tax period for a dealer whose turnover in the preceding year -

(a) is at or below five crore rupees, shall be, at the option of the dealer, either one month or a quarter; and

(b) exceeds five crore rupees, shall be one month.

(2) The tax period of a dealer who ceases to be registered, shall cease-

(a) if the registration is cancelled by the Commissioner, on the date specified by the Commissioner as the date on which the dealers registration ceases to have effect;

(b) where the dealer dies or is wound up, on the date of death or winding up;

(c) in any other case, on the date of cancellation of the registration.

(3) Where during the course of a particular year, the dealers turnover first exceeds five crore rupees, the dealer shall use a tax period of one month commencing from the first day of the month immediately following the completion of its current tax period.

(4) Where the tax period applying to a dealer was one month, the dealer shall continue to have a tax period of one month unless-

(a) the dealers turnover during each of the last three months was less than forty lakh rupees; and

(b) the dealers turnover during remainder of the year is likely to be less than five crore rupees.

(5) Where -

(a) a dealer has a tax period of one month;

(b) the dealer is not prohibited from having a tax period of a quarter under sub-rule (4) above;

(c) the dealer elects to have a tax period of a quarter; the election shall take effect from the first day of the next quarter.

(6) For the purpose of sub-rule (1), the "turnover" of a dealer shall not include turnover from

(a) the sale of capital assets;

(b) sales made in the course of winding up the dealers activities;

(c) sales made as part of the permanent diminution of the dealers activities. Explanation- For the purposes of this sub-rule, adequate proof of a dealers turnover shall be a copy of the following documents:-

(i) the annual audited accounts of the dealer for the three previous years or the annual accounts duly certified by the dealer where the accounts of the dealer are not required to be audited under any law for the time being in force

(ii) income tax returns furnished by the dealer for the three previous years duly certified by him or his accountant.

## **27. Returns - General :-**

(1) Every return under the Act shall -

(i) be furnished in the appropriate form prescribed in these rules;

(ii) contain the information and particulars required in that form;

(iii) be signed and verified by the person or authority mentioned in section 29 and in the manner specified in that form; and

(iv) be accompanied by all documents mentioned in the form.

(2) Where no form for a return is prescribed in these rules, the return may be made in writing and served on the Commissioner:

Provided that the Commissioner may require that the return be re-submitted in a form or manner specified by the Commissioner.

(3) Every person liable to furnish a return as agent for any person (including an auctioneer) shall furnish a separate return for each person for whom he is agent, in addition to his own return, if required.

(4) The person liable to furnish a return as trustee for another shall furnish a separate return for the trust of which he is a trustee, in addition to his own return, if required.

(5) Notwithstanding anything contained in this rule, the dealer or a class or classes of dealers as may be notified by the Commissioner by a special or general order, shall file the return in electronic form, from the date notified by the Commissioner in this regard and such dealer shall also file a copy of the return with the Commissioner within three days of electronic filing of return

## **28. Dealers periodic returns :-**

(1) Subject to sub-rule (2) of this rule, every dealer liable to pay tax under section 3 shall furnish a return in Form DVAT-16 for each tax period.

(2) Every dealer who has elected to pay tax under section 16 shall furnish return in Form DVAT- 17.

(3) A return under sub-rule (1) and sub-rule (2) shall be furnished within twenty eight days from the end of the dealers tax period and shall be accompanied by proof of payment of tax, interest or any other sum in Form DVAT-20 and documents as may be specified in the return.

(4) Where a dealers registration is cancelled under the Act and is subsequently restored, the dealer shall furnish within twenty eight days after the restoration, all monthly or, as the case may be, quarterly returns relating to the period during which his registration remained inoperative, and before furnishing such returns he shall deposit the tax due according to these returns in the same manner as he would have done if the registration was not so cancelled.

## **29. Revised returns :-**

(1) A person who furnishes a revised return in correction of some error that has been detected, shall do so by furnishing form DVAT-16 along with an explanatory note specifying the mistake or error because of which it has become necessary to furnish a revised return.

(2) A person paying tax under section 16 and wishes to furnish revised return to correct any mistakes/errors as detected by him, shall furnish in form DVAT-17 along with an explanatory note specifying the mistake or error because of which it has become necessary to furnish a revised return.

## **30. Statement for transitional input tax credit :-**

Where, upon the commencement of the Act, a registered dealer wishes to claim tax credit under section 14, he shall furnish the required statement in Form DVAT-18 and in case the tax credit claimed is in excess of one lakh rupees, the statement shall be accompanied by a certificate signed by an accountant.

## **CHAPTER 7 PAYMENT OF TAX AND MAKING REFUNDS**

### **31. Method of payment of tax, interest or penalty :-**



- (1) Tax, interest, penalty or any other amount due under the Act may be paid only in rupees.
- (2) A payment of tax, interest, penalty or any other amount due under the Act may be made either in cash or by means of a crossed cheque, or bank draft drawn in favour of the appropriate Government treasury drawn on an authorised bank and shall be tendered along with a duly completed Form DVAT-20.
- (3) Where a payment of tax, interest, penalty or any other amount due under the Act is made by cheque or bank draft, the date of the payment for the purpose of the Act shall be the date on which the said cheque or bank draft is encashed.
- (4) Any tax, interest, penalty or any other amount due under the Act may be paid-
- (a) at a branch in Delhi of the Reserve Bank of India;
  - (b) at a branch in Delhi of an authorised Bank;
  - (c) at any other place notified by the Commissioner.
- (5) Notwithstanding anything contained in this rule, the Commissioner may provide separate procedure or method of payment of tax, interest, penalty or any other amount due under the Act in electronic form.

### **32. Treasury to notify payments :-**

The appropriate Government treasury shall furnish to the Commissioner, the Part B of the Form DVAT-20 retained by it in respect of all payments made in a day together with sufficient information to identify the dealer. The officer in charge of the appropriate Government treasury shall set his hands and seal on the said information before furnishing it to the Commissioner.

### **33. Proof of payment :-**

- (1) On receipt of the Part B of the receipted Form DVAT- 20, the Commissioner shall allow the credit of the amount shown therein, to the dealer against tax, interest, penalty or any other amount due from him under the Act.
- (2) In case the Part B of Form DVAT-20 is not forthcoming to the Commissioner or is lost, destroyed, defaced or mutilated, the dealer who claims that he had paid any amount on account of tax, interest, penalty or any other amount due under the Act, the Commissioner may require such dealer to furnish other satisfactory proof of such payment which shall be the Part C or Part D of Form

DVAT-20 in respect of that payment supported by a certificate from the appropriate Government treasury that the payment shown in such Part C or Part D of Form DVAT-20 was deposited and credited to the Government account and an affidavit from such dealer that Part C or Part D of Form DVAT-20 and the certificate from the appropriate Government treasury are genuine. If the dealer fails to furnish satisfactory proof of such payment, the credit for such payment shall be disallowed by the Commissioner.

#### **34. Refund of excess payment :-**

(1) A claim for refund of tax, penalty or interest paid in excess of the amount due under the Act (except claimed in the return) shall be made in Form DVAT-21, stating fully and in detail the grounds upon which the claim is being made.

(2) Only such claim shall be made in Form DVAT-21 that has not already been claimed in any previous return. A claim for refund made in Form DVAT-21 shall not be again included in the return for any tax period.

(3) The Commissioner shall issue notice to any person claiming refund to furnish security under sub-section (5) of section 38, in Form DVAT -21A.

(4) Where the refund is arising out of a judgment of a Court or an order of an authority under the Act, the person claiming the refund shall attach with Form DVAT-21 a certified copy of such judgment or order.

(5) When the Commissioner is satisfied that a refund is admissible, he shall determine the amount of the refund due and record an order in Form DVAT-22 sanctioning the refund and recording the calculation used in determining the amount of refund ordered (including adjustment of any other amount due as provided in sub-section (2) of section 38).

(6) Where a refund order is issued under sub-rule (5), the Commissioner shall, simultaneously, record and include in the order any amount of interest payable under subsection (1) of section 42 for any period for which interest is payable.

(7) The Commissioner shall forthwith serve on the person in the manner prescribed in rule 62, a cheque for the amount of tax, interest, penalty or other amount to be refunded along with the refund order in Form DVAT-22.

(8) No refund shall be allowed to a person who has not filed return and has not paid any amount due under the Act or an order under

section 39 is passed withholding the said refund.

**35. Refund of tax for embassies, officials, international and public organisations :-**

(1) Subject to sub-rule (2) of this rule, an organisation listed in the Sixth Schedule of the Act (in this rule called "the organisation") may apply for the refund of the tax borne by it or by a qualified person as defined in sub-rule (6) on the purchase of goods once in every quarter, if-

(a) the goods are purchased by the organisation or the qualified person from a registered dealer;

(b) the goods (other than petrol, diesel and other fuels) are for the official use of the organisation or are for the personal use of the qualified person as listed in the Sixth Schedule;

(c) the goods were purchased from a registered dealer in a single transaction recorded on a single tax invoice and the sale price of the goods covered in the transaction exceeds five thousand rupees (excluding tax paid, if any) or such other amount as may be notified; (d) such other restrictions or conditions as may be notified by the Commissioner have been satisfied.

(2) An application for refund under section 41 shall be made by the organisation on behalf of itself and every qualified person attached to the organisation in Form DVAT-23 within a period of twenty eight days from the end of the relevant quarter covering all purchases for which the tax invoices have been issued in that quarter.

Explanation. - For the purpose of this rule, the organisation shall be deemed to be an agent duly authorised by all qualified persons attached to the organisation to make such a claim.

(3) A refund made to the organisation shall be deemed to be made to each qualified person through its agent duly authorised by the qualified person to receive such a payment.

(4) Where an application for a refund is made in accordance with sub-rule (1) and the application is made in the prescribed form, manner and time, the refund shall be paid by the Commissioner within thirty days from the day when the Commissioner receives the application along with refund order in Form DVAT-22.

(5) The amount of any refund shall be paid to a single account with a bank nominated by the organisation and any deposit made by the Commissioner to the account shall be deemed to be paid to the organisation and to every qualified person.

(6) Subject to the restrictions and conditions notified by the Commissioner, for the purposes of this rule, a "qualified person" means a person referred to in Sixth Schedule of the Act.

(7) Where an express term in a treaty or other international agreement to which the President or the Government of India is a party is inconsistent with the conditions in this rule, such treaty or international agreement shall prevail.

(8) A claim for a refund of tax made under this rule shall be a composite of all the claims for a refund of tax of the organisation and every qualified person attached to the organisation.

(9) The form shall be signed by the chief of the organisation or a person duly authorised by him. In case the form is signed by an authorised signatory, the form shall be accompanied by the letter of authorization signed by the chief of the organisation.

(10) The organisation claiming a refund under this rule shall be required to retain all tax invoices based on which such refund is claimed for a period of one year from the date on which the refund is made.

(11) The tax invoices filed along with the form shall be stamped by the Commissioner and returned along with the refund order in Form DVAT-22.

## **CHAPTER 8** ASSESSMENTS AND ENFORCEMENT OF TAX AND PENALTIES

### **36. Assessment of tax, interest or imposition of penalty :-**

(1) Where the Commissioner makes a default assessment of tax under section 32, he shall record the order in Form DVAT-24 and such notice of assessment shall be served on the dealer in the manner prescribed in rule 62.

(2) Where the Commissioner makes an assessment of penalty under section 33, he shall record the order in Form DVAT-24A and such notice of assessment of penalty shall be served on the dealer in the manner prescribed in rule 62.

### **37. Recovery of Government dues :-**

(1) In case of any amount recoverable in terms of sub-section (3) of section 43, the Commissioner may issue to the Collector a certificate in Form DVAT-25.

Provided that the Commissioner may encash the security furnished by any person, if capable of being encashed simultaneously with

the issue of certificate to the Collector and shall notify the Collector of the amount so realised.

(2) The Collector shall intimate to the Commissioner the amount recovered by him together with the date thereof and provide such other details as the Commissioner may require.

(3) Without prejudice to the provisions of sub-section (4) of section 57, if at any time after the recovery proceedings have been commenced by the Collector, the defaulter dies, the recovery proceedings shall be continued against the legal representatives.

(4) Any amount recoverable under Chapter VII of the Act, shall be recovered in the same manner as provided in sub-rules (1) to (3).

### **38. Continuation of certain recovery proceedings :-**

For the purposes of section 45, the Commissioner shall notify to the Collector any reduction of government dues in Form DVAT-26, a copy of which shall also be served on the person in the manner prescribed in rule 62.

### **39. Special mode of recovery :-**

For the purposes of section 46, the Commissioner shall serve on the person in Form DVAT-27 notifying the person of the requirement to pay the specified amount to the Commissioner in the manner prescribed in rule 62.

### **40. Issue of summons :-**

(1) A summons requiring a person -

(a) to appear before the Commissioner;

(b) to produce documents to the Commissioner; or

(c) to appear before the Commissioner and produce documents, shall be in Form DVAT-28.

(2) The Commissioner shall serve summons under sub-rule (1) in the manner prescribed in rule 62.

### **41. Procedures for sale of property held by the Commissioner :-**

(1) Where the Commissioner has in his possession any goods, goods vehicle, or any other property, including goods seized at any border or check-post and goods held as security for the performance of an obligation under the Act (in this rule called "the property"), which may be sold by the Commissioner in pursuance of

any powers conferred under the Act to recover tax, interest, penalty or other amount due under the Act, the power of sale shall be exercised in the manner set out in this rule.

(2) The Commissioner shall serve a notice in Form DVAT-29 in the manner prescribed in rule 62 on the person recorded as the owner of the goods in the Commissioners records requiring the person to redeem the property within fifteen days by tender of payment in cash of all amounts owed under the Act.

(3) Where the person has not redeemed the property within the time specified in the form, the Commissioner may proceed to sell the property by public auction as per the following procedure:-

(a) A report shall be prepared of the facts and circumstances in which the property is required to be sold by public auction and the Commissioner shall make a written order for sale or disposal of the property.

(b) The officer nominated by the Commissioner for the purpose shall cause to be published on the notice board of his office, a list of the properties intended for sale with a notice under his signature specifying the place where, and the day and hour at which, the property is to be sold and display copies of such list and notices at more than one public place near the place where the property is currently held, and the place of the proposed auction. A copy of the list and notice shall also be displayed in the office of the Commissioner. Except in exceptional circumstances, a notice for not less than seven days shall be given before the auction is conducted.

(c) Intending bidders shall be required to deposit as earnest money, a sum equal to ten per cent of the estimated value of the property. The officer conducting the auction shall prepare a receipt acknowledging the receipt of the earnest money. Earnest money deposited by unsuccessful bidders shall be refunded to them immediately after the auction is over.

(d) At the appointed day and time, the property shall be put up in one or more lots, as the officer conducting the auction sale may consider fit and shall be knocked down in favour of the highest bidder subject to confirmation of the sale by the Commissioner.

(e) The purchaser shall pay the sale value of the property in cash immediately after the sale and he shall not be permitted to carry away any part of the property until he has paid for the same in full and until the sale has been confirmed by the Commissioner. If the purchaser fails to pay the purchase money within three days of the confirmation of sale by the Commissioner, the property shall be reoffered for auction and any earnest money deposited by the

defaulting bidder shall be forfeited to the Government.

(4) If any order directing detention is reversed on appeal, the property detained, to the extent they have not been sold before such reversal comes to the knowledge of the officer conducting the sale, shall be released or, if such property has been sold, the net proceeds thereof shall be paid to the owner of the property.

(5) Notwithstanding anything contained in this rule, if the property is of a perishable nature or subject to speedy and natural decay or when the expenses of keeping it in custody are likely to be high, the Commissioner may -

(a) reduce the time stated in sub-rule (2) within which the owner may redeem the property;

(b) reduce the time for display of any notice; and

(c) accelerate the time for conducting the auction of the property.

(6) Where property is sold under the preceding sub-rules, the proceeds of sale shall be applied in the following order -

(a) payment of any expenses of the sale, including tax arising under the Act by virtue of the sale, and other incidental charges;

(b) in respect of any surplus, payment of the amount of any tax, interest and penalty recoverable under the Act or the Delhi Sales Tax Act, 1975 (43 of 1975) or the Delhi Sales Tax on Works Contract Act, 1999 (Delhi Act 9 of 1999) or the Central Sales Tax Act, 1956 (74 of 1956) or the Delhi Sales Tax on Right to Use Goods Act, 2002 (Delhi Act 13 of 2002);

(c) in respect of any surplus, on application made to the Commissioner and upon provision of sufficient proof, payment to the person who was the owner of the property; and

(d) in respect of any surplus, in the absence of any claimant, deposited in the Consolidated Fund of the National Capital Territory of Delhi.

## **CHAPTER 9 ACCOUNTS, RECORDS AND AUDIT**

### **42. Books and Accounts :-**

(1) The following records shall be maintained by a dealer at his principal place of business, namely:-

(a) A monthly account specifying total output tax, total input tax and net tax payable or the excess tax credit due for carry forward.

(b) Purchase records, showing details of purchases on which tax has been paid, purchases made without payment of tax, purchases made from an exempted unit and purchases made from outside Delhi in Form DVAT-30. Original tax invoices for purchases on

which tax has been paid and invoices for purchases made without payment of tax shall be preserved date-wise and in numerical order.

(c) Sales records showing separately sales made at different tax rates, zero-rated taxable sales and tax-free sales in Form DVAT-31. Copies of tax invoices related to taxable sales and invoices related to exempt sales shall be retained date-wise and in numerical order.

(d) Record of inter-state sales and inter-state transfer of goods (including that of goods sent for job work) supported by statutory declarations and such other evidence as may be relevant.

(e) Details of input tax calculations where the dealer is making both taxable and tax free sales.

(f) Stock records showing stock receipts and deliveries and manufacturing records.

(g) Stock records showing separately the particulars of goods stored in cold storage, warehouse, godown or any other place taken on hire

(h) Order records and delivery challans, wherever applicable.

(i) Annual accounts including trading, profit and loss accounts and the balance sheet.

(j) Bank records, including statements, cheque book counter foils and pay-in-slips.

(k) Cash book, daybook and ledger.

(2) The following records shall be maintained by a dealer having elected to pay tax under section 16, namely:-

(a) Details of the goods purchased and sold by him; and

(b) Cash book, daybook, ledger, invoice books and purchase vouchers.

(3) Every owner or lessee of a cold storage, warehouse, godown or any such place, who stores goods for hire or reward shall maintain or cause to be maintained a correct and complete account indicating the full particulars of the person whose goods are stored and the quantity, value, date of arrival, date of dispatch and the proposed destination of such goods.

(4) Every person who carries goods for reward shall maintain or cause to be maintained a correct and complete account indicating the full particulars of the person whose goods are carried, the quantity, value, the place and date of delivery of such goods, vehicle number, serial number and date of Goods Receipts (GR) note and his office copy of the same.

### **43. Records to be carried by a person in charge of a goods**



**vehicle :-**

(1) The owner, driver or person in charge of the goods vehicle shall carry the Transport Receipt in Form DVAT-32, sale invoice or delivery note in Form DVAT-33, and, as the case may be, export declaration in Form DVAT-34, import declaration in Form DVAT-35 or transit slip in Form DVAT 35A.

(2) For obtaining export or, as the case may be, import declaration in Forms DVAT-34 and DVAT-35, an application in Form DVAT 46 shall be made to the Commissioner by the user dealer.

(3) Account of the usage of Forms DVAT 34 and DVAT 35 shall be maintained by the user dealer in Form DVAT 35B which shall be open for inspection by the Commissioner and shall be filed with the Commissioner every quarter or with every new application for obtaining Form DVAT 34 and DVAT 35, whichever is earlier.

(4) A declaration in Form DVAT 34 or DVAT 35 shall be in three parts. Each part shall be filled and signed by consignor, the consignee and the transporter, as the case may be. The owner, driver or person in charge of the goods vehicle shall keep with him such declaration forms in duplicate while carrying the goods. He shall submit the declaration forms in duplicate at the check post or barrier. The officer in charge shall retain the original part of such declaration and shall return to the owner, driver or person in charge of the goods vehicle, the duplicate part duly verified, signed and stamped. The duplicate part of such declarations shall be furnished by the user dealer to the Commissioner along with the account of such declaration maintained in Form DVAT 35B at the time of obtaining of additional declaration forms.

(5) Where the goods vehicle entering Delhi, is bound for any place outside Delhi and passes through Delhi, the owner, driver or the person in charge of the goods vehicle shall furnish, in duplicate, to the officer in charge of the check post or barrier, a Transit Slip in duplicate in Form DVAT-35A duly filled, signed and verified. He will obtain from the officer in charge of the check post or the barrier one copy of the Transit Slip duly countersigned. The owner, driver or person in charge of the goods vehicle shall deliver within twelve hours of its entry into Delhi, the said countersigned copy to the officer in charge of the check post or barrier at the point of his exit from Delhi.

(6) The owner, driver or his agent or the person in charge of the goods vehicle when required to furnish security under sub-section (5) of section 61 shall furnish security in the form and in the

manner and subject to the conditions specified in rule 23. The security referred to in this sub-rule shall be furnished within the time specified in the order not exceeding seven days from the detention of the goods. The Commissioner shall issue to the depositor a receipt in Form DVAT-47 acknowledging the receipt of the security.

(7) The officer in charge of the check post or barrier detaining the goods shall make a report to the Commissioner about all the facts and circumstances of the case within twelve hours of the detention of the goods.

(8) Where the goods detained are not released owing to the failure to furnish the security required to be furnished under sub-section (5) of section 61 within the specified time, the notified goods detained shall be sold by public auction after following the procedure as specified in rule 41.

Explanation. - For the purpose of this rule, unless the context otherwise requires, "officer in charge" of the check post or barrier" shall also include any officer or any agent as may be empowered by the Commissioner.

#### **44. Issue of Duplicate Tax Invoice :-**

(1) Where a purchasing dealer claims to have lost the original tax invoice, the selling dealer may, upon a request made by the purchasing dealer accompanied by an undertaking-cum-indemnity in Form DVAT-36, provide a copy of such last tax invoice clearly marked as a duplicate and shall furnish a copy of such undertaking cum indemnity along with his return for the tax period in which such duplicate tax invoice has been issued.

(2) Except when a tax invoice is issued under sub-section (1) of section 50, if a dealer sells any goods exceeding twenty five rupees in any one transaction to any person, he shall issue to the purchaser a retail invoice in terms of sub-section (4) of section 50.

#### **45. Credit and debit Notes :-**

For the purposes of section 51, a credit note and a debit note shall be signed by a person authorised to sign the return to be filed under the Act and shall contain the following particulars, namely:-

(a) the name, address and registration certificate number of the selling registered dealer;

(b) the name and address of the purchaser and his registration number where the purchaser is a registered dealer;

- (c) a description of the reason for issuing the credit note or debit note, as the case may be;
- (d) the serial number of the relevant tax invoice affected by the credit note or debit note, as the case may be; and
- (e) the amount of the variation to the tax amount shown on the tax invoice.

#### **46. Notice for audit :-**

Where the Commissioner has decided to audit the business affairs of any person under section 58, the Commissioner may serve on that person a notice in Form DVAT-37 in the manner prescribed in rule 62.

### **CHAPTER 10 VALUE ADDED TAX AUTHORITIES AND APPELLATE TRIBUNAL**

#### **47. Designation of other persons appointed to assist the Commissioner :-**

Other persons who may be appointed to assist the Commissioner under sub-section (2) of section 66 may be designated as Special Commissioner, Joint Commissioner, Deputy Commissioner, Assistant Commissioner, Assistant Value Added Tax Officer and Value Added Tax Inspector.

#### **48. Conditions upon delegation of powers by the Commissioner :-**

Without prejudice to the provisions of section 68, the Commissioner may delegate any of his powers to any person not below the rank of an Assistant Value Added Tax Officer, but he may delegate his powers-

- (a) under sub-sections (1) and (2) of section 60, to a person not below the rank of a Value Added Tax Officer;
- (b) under section 61, to a person not below the rank of a Value Added Tax Inspector; and
- (c) under section 84, to a person not below the rank of an Additional Commissioner.

#### **49. Superintendence and control :-**

Subject to the general control and superintendence of the Government, control and superintendence over all officers

appointed under sub-section (2) of section 66 shall vest in the Commissioner.

**50. Conditions subject to which an officer may be authorised to investigate offences punishable under the Act :-**

The Commissioner shall not authorize any officer for the purpose of sub-section (1) of section 92 who is lower in rank than an Assistant Value Added Tax Officer.

**CHAPTER 11 DISPUTES**

**51. Authority to whom objection may be made :-**

An objection under sub-section (1) of section 74 shall lie to Special Commissioner, Additional Commissioner, Joint Commissioner, Deputy Commissioner, Assistant Commissioner, Value Added Tax Officer and Assistant Value Added Tax Officer:

Provided that the Commissioner may, by notice published in the official Gazette, fix the jurisdiction of the respective authority on the basis of territory or pecuniary limit or nature or class of objections or on any other basis that may be deemed appropriate by the Commissioner.

**52. Making of objections :-**

(1) Every objection shall be made in Form DVAT-38 accompanied by a copy of the notice of assessment, order or decision against which the objection is being preferred and shall be submitted in triplicate with one copy to the Commissioner or the Value Added Tax authority against whose order the objection has been preferred.

(2) Every objection shall contain a clear statement of facts, precise grounds of objection and the relief claimed.

(3) Where an objection is made after the time limit prescribed under sub-section (4) of section 74, it shall be accompanied by a statement in Form DVAT-39, showing the reason for the delay in making the said objection.

(4) Where fresh evidence is sought to be produced, the objection shall be accompanied by a memorandum of the evidence sought to be produced, stating clearly the reasons why such evidence was not adduced before the Value Added Tax authority against whose order the objection is being preferred.

(5) The objection in Form DVAT-38 shall be signed by the person making such objection or his agent and shall be presented by him or his agent to the authority in person.

(6) The authority shall issue or cause to be issued an acknowledgement of the objection received, to the person who has filed the objection, specifying the date of personal hearing.

### **53. Determination of objections :-**

The Commissioner while deciding the objection shall conduct the proceedings by examining-

(a) the registers and records maintained by the Value Added Tax Authority against whose order or decision or assessment the objection has been preferred;

(b) the objection; and

(c) any other document, information or report, which, in his opinion, is relevant to decide the objection; and may -

(i) admit any further oral or documentary evidence that is relevant to the matters in dispute; and

(ii) allow the applicant to present its arguments in person, by a representative authorised to appear before any authority under section 82 and by submission in writing, if any.

### **54. Hearings :-**

(1) Unless the person making the objection has expressly waived the personal hearing, the Commissioner or the Value Added Tax Authority (together referred to in this rule as "authority") deciding the objection shall pass the order on the objection after affording a reasonable opportunity of being heard to such person or his authorised representative.

(2) The authority deciding the objection may before deciding the objection, cause such further and other enquiry or direct such enquiry to be held by the authority against whose decision the objection has been preferred, as the authority deciding the objection may consider necessary. The authority against whose order or decision or assessment the objection has been preferred may be represented by a person authorised by him.

(3) The authority deciding the objection shall not at any hearing, allow the objector to argue or present any ground of objection not specified in the objection unless the authority is satisfied that omission of that ground therefrom was not wilful or unreasonable.

## **55. Intimation of outcome of objection :-**

The decision of the Commissioner or the Value Added Tax Authority deciding the objection shall be intimated to the applicant in Form DVAT-40 and shall be served on the person making the objection in the manner prescribed in rule 62.

## **56. Delay :-**

(1) A notice for the purpose of sub-section (8) of section 74 shall be in Form DVAT-41.

(2) The notice shall be signed by the person making the objection or his authorised signatory and shall be served in person on the Commissioner or the Value Added Tax Authority deciding the objection.

## **57. Refund on account of objection :-**

The procedure for the refund of any amount due in consequence of an order made pursuant to an objection, or any other proceeding under the Act, shall be that provided in rule 34.

## **57A. Filing of appeal before Appellate Tribunal :-**

(1) Every appeal shall be presented in the form of a memorandum of appeal which shall be-

(a) in Form DVAT -38A when the appeal is against an order of assessment;

(b) written on a standard watermarked judicial paper when the appeal is against any other order or decision.

(2) Every memorandum of appeal shall be accompanied by a fee of fifty rupees in the form of court fee stamps.

(3) Every memorandum of appeal shall contain a clear statement of facts, precise ground of appeal and relief claimed.

(4) Every appeal shall be filed in triplicate and shall be accompanied by three copies (at least one of which shall be certified) of the order appealed against and three copies of the order of the original authority. Copies, other than those that are certified, shall be attested by the appellant or his authorised representative as true copies.

(5) An appeal to the Appellate Tribunal shall be signed by the appellant and shall be presented by him in person or by his authorised representative to the Appellate Tribunal or to an officer

authorised by the Appellate Tribunal.

(6) Where an appeal is made after the expiry of the period specified in sub-section (2) of section 76, it shall be accompanied by a petition duly verified setting forth the facts showing sufficient cause for not preferring the appeal within the said period.

(7) Where the appeal is made without payment in full of the tax or any penalty in respect of which the appeal is being preferred, the memorandum of appeal shall be accompanied by a petition duly verified stating the facts on which the appellant relies to satisfy the Appellate Tribunal to entertain his appeal without such payment or on payment of such lesser amount as remains unpaid.

(8) Every appeal where fresh evidence is sought to be produced, shall be accompanied by a memorandum of evidence sought to be produced, stating clearly the reasons why such evidence was not adduced before the authority against whose order the appeal is being preferred.

#### **57B. Furnishing of security :-**

Where the Appellate Tribunal orders an appellant to furnish security under the proviso to sub-section (4) of section 76, the appellant shall furnish the security in any one of the modes specified in rule 23 of these rules, as the Appellate Tribunal may direct and subject to the conditions specified therein.

#### **57C. Hearing of the appeal or application :-**

(1) If the Appellate Tribunal does not reject the appeal summarily, it shall fix a date for its hearing and send a notice to the appellant and the Commissioner. The Appellate Tribunal may, before deciding the appeal, hold such further enquiry or direct it to be held by the authority against whose decision the appeal has been preferred, as may appear necessary to the Appellate Tribunal. The Commissioner may be represented by a person authorized by him.

(2) The Appellate Tribunal shall not, for the first time receive in evidence on behalf of the appellant, an account, register, record or other documents, unless it is satisfied that the appellant was prevented by sufficient cause from producing such documents before the authority against whose order the appeal has been preferred.

(3) The Appellate Tribunal shall not, at the hearing of appeal allow the appellant to go into any ground of appeal not specified in memorandum of appeal unless the Appellate Tribunal is satisfied

that omission of that ground therefrom was not wilful or unreasonable.

### **58. Determination of specific questions :-**

(1) Any person desiring that a question be determined by the Commissioner pursuant to section 84, shall furnish a concise statement of the case in form DVAT-42 stating therein precisely the question to be determined, and indicating clearly the basis for the question. Where the person applying for the determination so desires, the statement may separately include a draft ruling for the Commissioners consideration and shall be accompanied by a demand draft in favour of

"The Commissioner Delhi Value Added Tax" for the amount of the fee as prescribed in Annexure 1 to these rules.

(2) The statement of the case referred to in sub-rule (1) shall contain a declaration that the question submitted for determination of the Commissioner does not arise from any order passed under the Act or under the Delhi Sales Tax Act, 1975 (43 of 1975), or the Delhi Sales Tax on Works Contract Act, 1999 (Delhi Act 9 of 1999), or the Delhi Sales Tax on Right to Use Goods Act, 2002 (Delhi Act 13 of 2002), which were in force before the commencement of the Act and shall be signed by the person or his agent.

(3) The Commissioner, after considering all the relevant material produced before him in this connection, shall determine the question or questions referred to him.

(4) The decision of the Commissioner shall be prepared and notified to the applicant in writing.

(5) An order determining the questions shall be made by the Commissioner within a period of six months from the date of submission of the question, failing which, the provision of sub-section (6) of section 84 shall apply.

## **CHAPTER 12 MISCELLANEOUS**

### **59. Tax Deduction At Source :-**

(1) Any person deducting tax under section 36A shall deposit the tax in the appropriate Government treasury against the challan in Form DVAT-20 within the time prescribed in section 36A, along with interest for delayed payment.

(2) Person who has deducted the tax under sub-section (1) of section 36A shall issue a certificate for deduction of tax in Form



DVAT-43. Such certificate shall be issued in triplicate. The person who has deducted the tax shall furnish the original copy of the certificate to the contractor within twenty eight days from the end of the month in which tax has been deducted. The second copy thereof along with proof of payment in challan Form DVAT-20 shall be attached along with the return of Tax Deduction at Source (T.D.S) as prescribed in sub-rule (4) of this rule. The third copy thereof shall be retained by him for his records.

(3) Every person responsible for making deduction of tax under section 36A shall apply for Tax Deduction Account Number (T.A.N) within thirty days from the date on which the tax was deducted or deductible in Form DVAT-44 and a Tax Deduction Account Number shall be issued in Form DVAT-45.

(4) Every person deducting tax shall be required to file a Tax Deduction at Source (T.D.S) annual return in Form DVAT-48 within a period of twenty eight days from the end of the year in which tax has been deducted.

#### **60. Rounding :-**

Where the Act or these rules require an amount to be calculated and the amount is not a multiple of a rupee, the amount shall be rounded off to the nearest rupee.

#### **61. Printing of forms :-**

All forms prescribed in these rules shall be printed under the authority of the Commissioner and be obtainable from him or his authorised agent on payment of such charges, as may be specified by the Commissioner from time to time: Provided that any form in force before commencement of these rules and which may be specified by the Commissioner by order in writing may continue to be used for such period as specified in the said order:

Provided further that the provisions of this rule shall not apply to such form or forms as the Commissioner may specify in this behalf. It shall be open for a dealer to download such forms from the official website that may be notified by the Commissioner.

#### **62. Service of documents :-**

(1) Without prejudice to the provisions of sections 96 and 97, notices of summons or orders (in this rule called a document) under the Act or these rules may be served by any of the following

methods, namely:-

(i) by delivering or tendering to the addressee or his agent, or to a person regularly employed by him in connection with the business in respect of which he is registered or to any adult member of his family, a copy of the notice, summons or order;

(ii) by post: Provided that if upon an attempt having been made to serve any such notice or summons or order by any of the above mentioned method, the Commissioner is satisfied that the addressee is evading service of notice, summons or orders or that for any other reasons, the notice, summons or order cannot be served by any of the above mentioned methods, the Commissioner shall cause such notice or summons or orders to be served by affixing a copy thereof-

(a) if the addressee is a dealer, upon some conspicuous part of any place of the dealers business last notified by the dealer or if the said place of business is known not to exist or is not traceable, upon some conspicuous part of the last known place of residence of its proprietor or partner or director or trustee or manager or authorised signatory or any other person authorised to receive notice on behalf of the dealer;

(b) if the addressee is not a dealer, on some conspicuous part of his residence or office or the building in which his residence or office is located; and such service shall be as effectual as if it has been on the addressee personally:

Provided further that where the Commissioner at whose instance the notice or summons or order is to be served, on inquiry, is satisfied that the said office, building, place of residence is known not to exist or is not traceable, he may, by order in writing, dispense with the requirement of service of the notice or summons or order under the preceding proviso;

(iii) by sending the document by facsimile;

(iv) by sending the document by electronic mail;

(v) by sending the document by courier; or

(vi) in such other manner as the Commissioner thinks fit.

(2) When the officer serving a notice or summons or order delivers or tenders a copy of the notice or summons or order to the addressee personally or to his agent or to any other person referred to in clause (i) of sub-rule (1), he shall require the signatures of the person to whom the copy is so delivered or tendered, as an acknowledgment of the service, endorsed on the original notice of summons, or order; Provided that where the addressee or his agent or any such person refuses to sign the acknowledgment, the

servicing officer shall affix a copy of the notice or summons or order on the outer door or some other conspicuous part of the premises in which the addressee ordinarily resides or carries on business or personally works for gain.

(3) When the notice, summons or order is served by affixing a copy thereof in accordance with the provisions to sub-rule (1) or sub-rule (2), the officer serving it shall return the original to the Value Added Tax authority which issued the notice, summons or order with a report endorsed thereon or annexed thereto, stating that he so affixed the copy, the circumstances under which he did so and the name and address of the person, if any, by whom the addressee's place of business or residence was identified and in whose presence the copy was affixed. The said officer shall also obtain the signatures or thumb impression of the person identifying the addressee's residence, office, or place of business.

(4) When service is made by post, the service shall be deemed to be effected by properly addressing, pre-paying and posting by registered post the notice, summons or order and unless the contrary is proved, the service shall be deemed to have been effected at the time at which the notice, summons or order would be delivered in the ordinary course by post.

(5) When the service is made through a courier, the service shall be deemed to have been effected by properly addressing, pre-paying and delivering to the courier the notice, summons or order and unless contrary is proved, the service shall be deemed to have been effected at the time at which the notice, summons or order would be delivered in the ordinary course by courier.

(6) The sufficiency of mode of service of any notice, summons or order shall be decided by the Value Added Tax authority which issued the same.

### **63. Submission of documents with Commissioner :-**

(1) Subject to sub-rule (2), any application, return, form, or other document (in this rule called "document") which is to be furnished, submitted or made (in this rule referred to as "submitted") to the Commissioner under the Act or these rules shall be submitted by-

- (a) delivering the document to the Commissioner at his office;
- (b) delivering the document to the Commissioner at any other place notified by him; or
- (c) such other means as the Commissioner may notify, including electronic means.

(2) A document shall be treated as submitted by a person to the Commissioner if the document is submitted by delivery at a place notified by the Commissioner, once the document has been stamped with the date of receipt by the Commissioner or by any other person authorised by the Commissioner to receive the document.

#### **64. Qualifications to be possessed by Value Added Tax Practitioner :-**

(1) A value added tax practitioner referred to in section 82 shall be eligible to have his name entered in the list, if -

(a) he possesses any of the qualifications specified in rule 50 or rule 51 of the Income Tax Rules, 1962, as amended from time to time; or (b) he -

(i) was formerly an employee of the Sales Tax Department or Value Added Tax Department;

(ii) held during service in the department an office not lower in rank than that of an Assistant Sales Tax Officer or Assistant Value Added Tax Officer for not less than seven years; and

(iii) is, in the opinion of the Commissioner, a fit and proper person to appear or act in proceedings under the Act and these rules.

(2) A person referred to in clause (b) of sub-rule (1) shall not be eligible to appear before the authority deciding the objection on behalf of a person for a period of one year after he ceased to be an employee of the Department.

(3) A person who wishes to have his name entered in the list referred to in clause (c) of subsection

(1) of section 82, shall -

(a) apply to the Commissioner in writing;

(b) pay the fee as prescribed in Annexure 1 of these rules; and

(c) furnish with his application, documentary evidence of his eligibility.

(4) The Commissioner shall maintain a list of all persons whose names are entered as per this rule.

(5) A Certificate in Form DVAT-49 would be provided to each qualified value added tax practitioner.

#### **65. Officers to carry and produce authorisations :-**

(1) Where the Commissioner wishes to appoint an officer or other person to exercise any of the powers in Chapter X of the Act, the grant of authority to exercise the powers shall be in Form DVAT-50

and shall be issued by the person empowered by the Commissioner in this regard.

(2) The grant of authority shall -

(a) be limited to a period not exceeding three years;

(b) be to a specific person; and

(c) expire on the retirement, resignation or transfer of the person; Provided that an authority granted may be renewed.

(3) Every officer or other person authorised by the Commissioner under sub-rule (1) shall - (a) carry the authorization in Form DVAT-50, with him when purporting to exercise any of the powers conferred under Chapter X of the Act; and

(b) produce the authorization in Form DVAT-50, if requested by the owner or occupier of any premises where he proposes to exercise these powers.

#### **66. Location of check-posts and barriers :-**

The check-posts and barriers set up for the purposes of section 101 shall be located at the places described in the Annexure 2 to these rules.

#### **67. Additional Information for proper administration of the Act :-**

(1) Every dealer effecting sale or purchase in the course of inter state trade or commerce shall furnish a statement in Form DVAT-51 within nine months from the end of the year.

(2) Every transporter, cold storage or warehouse operator, or any other person shall produce such information as required for proper administration of the Act.

(3) Where, upon the commencement of the Act, a person is deemed to have been registered under the Act pursuant to section 24, he shall furnish a statement of opening stock held by him and that has not suffered tax under the Delhi Sales Tax Act 1975 (43 of 1975) in Form DVAT-18A along with his first return to be filed in Form DVAT-16.

#### **68. Repeal and savings :-**

(1) The Delhi Sales Tax Rules 1975, the Delhi Sales Tax on Works Contracts Rules, 1999, the Delhi Tax on Entry of Motor Vehicles into Local Areas Rules, 1995 and The Delhi Sales Tax on Right to Use Goods Rules, 2004 as in force in Delhi (referred to in this rule

as the "said rules"), are hereby repealed.

(2) Notwithstanding sub-rule (1), such repeal shall not affect the previous operation of the said rules or any right, title, obligation or liability already acquired, accrued or incurred thereunder.

(3) For the purposes of sub-rule (2), anything done or any action taken including any appointment, notification, notice, order, rule, form or certificate in the exercise of any powers conferred by or under the said rules shall be deemed to have been done or taken in the exercise of the powers conferred by or under these rules, as if these rules were in force on the date on which such thing was done or action was taken.