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TRADE CIRCULAR

Sub:1) Changes in the rate of tax under the Maharashtra Value Added Tax Act, 2002

2) Modifications in the Composition Schemes

3) Entry Tax on slabs of marbles and granite.

- Ref:** 1) Notification No. VAT 1516/C.R.31/Taxation-1 dated 30th March 2016, issued u/s 9(1) of the MVAT Act, 2002.
2) Notification No. VAT 1516/CR 51/Taxation-1 dated 30th March 2016 u/s 42 of the MVAT Act, 2002
3) Notification No. ENG. 1516/CR 56/Taxation dated 1st April 2016 u/s 3(1) of the Tax on Entry of Goods Act, 2002
4) Notification No. VAT. 1516/CR 61/Taxation-1 dated 20th April 2016, issued u/s 9(1) of the MVAT Act, 2002.

No.VAT/AMD-2016/1C/6/Adm-8

Trade Cir.03 T of 2016

Mumbai Dt: 22/04/2016

To give effect to the Budget proposals for the year 2016-17, Schedules 'A' and "C" of the MVAT Act have been amended by notification u/s 9(1) of the said Act, 2002, dated 30th March 2016 [Reference 1]. The revision in the tax rates and amendments to MVAT Schedule entries are explained in **Part I** of this circular.

The Composition Schemes under section 42 of the MVAT Act, have been modified by the notification dated 30th March 2016 [Reference 2] which are explained in **Part II** of this circular.

Amendment to the Schedule under the Mah. Tax on Entry of Goods into Local Areas Act, 2002 by the notification dated 1st April 2016 is explained in **Part III** of the Circular. [Reference 3]

Part I

1. Amendments to Schedule 'A':

i. Tax free commodities with sun-set clause:

Exemption to the commodities under Sch. Entry A-9A, A-51 and A-59 was available till 31st March 2016. The commodities covered by these entries continue to be tax-free up to 31st March 2017 and are as follows:

1. *Paddy, rice, wheat and pulses in whole grain, split or broken form.*[A-9A(a)]
2. *The flour of wheat and rice including atta, maida, rawa and suji whether sold singly or in mixed form.*[A-9A(b)]
3. *The flour of pulses including besan when sold singly and not mixed with flour of other pulses or cereals.*[A-9A(c)]
4. *Papad. except when served for consumption.*[A-51(i)]
5. *Gur.*[A-51(ii)]
6. *Chillies, turmeric and tamarind whole, powdered or separated but excluding chilly seed and tamarind seed when sold in separated form.*[A-51(iii)]
7. *Corainder seeds, Fenugreek and Parsley (Suva) whole or powdered* [A-51(iv)]
8. *Coconut in shell and separated kernel of coconut, other than copra* [A-51(v)]
9. *Solapuri chaddars*[A-51(vi)]
10. *Wet dates* [A-51(viii)]
11. *Raisins and currants* [A-59]

ii. Terry towels:

Upto 31st March 2016, towels, covered by Schedule entry A-51(vii) were tax free.

From 1st April 2016, only towels, covered by the Central Excise Tariff Heading 63049260 were made tax-free up to 31st March 2017. Therefore, consequentially, other towels became taxable from 1st April 2016. However, on reconsideration of the issue, the State Government has issued a notification on 20th April 2016 [Reference 4], by which the "towels" have been made tax free from 1st April 2016 up to 31st March 2017.

In case, any dealer has collected any amount by way of tax on the sales of towels, then such amount shall be forfeited.

iii. Mammography machines, used for the diagnosis of Breast Cancer:

From 1st April 2016, mammography machines, used for the diagnosis of breast cancer, have become tax-free. *[Sch. entry A-12A substituted]*

iv. Hybrid electric vehicles, battery operated vehicles and solar powered vehicles:

Vehicles operated on battery or solar power were taxable at 5% up to 31st March 2016. *[Sch. Entry C-115]*. Rate of tax on such vehicles has increased from 5% to 5.5% w.e.f. 1st April 2016 as other goods in Schedule "C".

On the other hand, the hybrid electric buses and battery operated buses, which are sold to the public transport undertakings, in the state, for public transport, have become tax-free w.e.f. 1st April 2016. *[New entry 13A inserted in Sch. A]*

v. Bamboo, bamboo products & handicrafts made of bamboo:

Handicrafts made of bamboo are now tax-free from 1st April 2016. However, rate of tax on bamboo, bamboo furniture and other bamboo products, covered by Sch. entry C-10 has increased from 5% to 5.5%. *[New entry 27B inserted in Sch. A and consequential amendment to entry C-10 is made]*

vi. Retrofit kits:

Motor vehicles, having engine capacity up to 200 cc, adapted or modified for use by handicapped persons (invalid carriages) are already exempted w.e.f. 27th December 2013. *[Sch. entry A-63]*.

Adaptation or modification of vehicles of the handicapped requires retrofit kits. These retrofit kits were taxable at the rate of 12.5% up to 31st March 2016.

From 1st April 2016, retrofit kits, sold by dealers, authorized by the testing agencies, prescribed in rule 126 of the Central Motor Vehicle Rules, 1989, used to modify vehicles of the handicapped persons are made tax-free. *[Sch. entry A-59A inserted]*. Rule 126 of the Central Motor Vehicle Rules, 1989 contains names of the Testing Agencies and it

also empowers the Central Government to specify such testing agencies.

2. Set off restrictions:

It goes without saying that the set-off to manufacturers of tax-free goods, referred above shall be, subject to the provisions of Rule 53, of the MVAT Rules w.e.f. 1st April 2016.

3. Increase in rate of tax from 5% to 5.5%:

As announced in the budget speech for the year 2016-17, the rate of tax on most of the goods, specified in Schedule 'C' has been increased from 5% to 5.5%.

The rate of tax on the goods, covered by the following entries in Schedule 'C' has increased from 5% to 5.5% w.e.f. 1st April 2016:

C-1, C-2, C-3, C-4(b), C-5, C-6, C-7, C-9, C-10, C-11, C-12, C-13, C-14, C-15, C-16, C-17, C-17A, C-18, C-19, C-21, C-23, C-24, C-25(b), C-26, C-28, C-29, C-29A, C-30, C-31, C-31A, C-32, C-33, C-34, C-35, C-36, C-37, C-38, C-39, C-41, C-43, C-44, C-46, C-47, C-50, C-53, C-53A, C-54, C-55B, C-56, C-59, C-61, C-62, C-64, C-65, C-66, C-67, C-69, C-70, C-71, C-72, C-73, C-74, C-75, C-75A, C-76, C-77, C-79, C-80, C-81, C-82, C-82A, C-83, C-83A, C-84, C-85, C-85A, C-87, C-88, C-89, C-90, C-91, C-92, C-93, C-94, C-96, C-97, C-98, C-99, C-100, C-101(b), C-103, C-104, C-105, C-107, C-108, C-108A, C-110, C-111, C-112, C-113, C-114, C-115, C-116.

The rate of tax on the following goods in Schedule 'C' (commodities described in short), remains unchanged:

C-4(a) [cotton yarn], C-8 [ATF sold to a turbo-prop aircraft], C-22 [Coal including coke in all its forms, but excluding charcoal], C-25(a) [Cotton], C-27 [Crude oil], C-45 [Hides and skins], C-55 [Iron and steel], C-57 [Jute], C-58 [Kerosene oil sold through the Public Distribution System and LPG for domestic use], C-68 [Oil seeds, except cotton seed], C-101(a) [Notified fabrics, covered by sec. 14 of the CST Act].

Rate of tax on the goods, covered by Schedules 'D' and 'E' also remains unchanged.

4. Amendments to certain entries in Schedule 'C':

Certain entries in Schedule 'C' have also been amended w.e.f. 1st April 2016. The amendments are explained below:

i. Barbed wire, wire mesh and chain link:

Barbed wire, wire mesh and chain links were taxable at 12.5% (*sch. Entry E-1*) up to 31st March 2016.

Rate of tax on barbed wire, wire mesh and chain links has been reduced to 5.5% w.e.f. 1st April 2016. [*New entry 3A inserted in Schedule 'C'*]

ii. Cotton seed-

Rate of tax on cotton is 2% since 1st August 2014 and the rate of tax on cotton yarn is also 2% since 1st April 2012 [*Entry C-25*]. However, the rate of tax on cotton seed was 5% [*Entry C-68(iii)*].

Rate of tax on cotton seed (*Gossypium Spp*) is also now reduced to 2% w.e.f. 1st April 2016. [*Sub-entry (c) added in entry C-25 and sub-entry (iii) in C-68 deleted*].

iii. Hair oil:

Prior to the amendment, Schedule entry C-29(a) read as follows: "*Drugs (including Ayurvedic, Siddha, Unani, Spirituous Medical Drugs and Homeopathic Drugs), being formulations or preparations conforming to the following description:-*

Any medicinal formulation or preparation ready for use internally or on the body of human beings, animals and birds for diagnosis, treatment, mitigation or prevention of any diseases or disorders, which is manufactured or imported into India, stocked, distributed or sold under license granted under the Drug and Cosmetic Act, 1940, but not including, (i) products capable of being used as cosmetics, shampoos and (ii) mosquito repellants in any form."

The products, capable of being used as cosmetics, shampoos and mosquito repellants in any form are excluded from this entry and hence are liable to tax at 12.5%. This exclusion is irrespective of the fact as to whether these products are "medicines" or not.

From 1st April 2016, hair oil has also been added to the exclusion list and therefore any medicinal preparation or formulation, which is capable of being used as hair oil shall not be covered by this entry due to the express exclusion and would be taxable at 12.5%.

iv. Sterile water for injection:

Water for injection was excluded from the Schedule entry A-49 and was taxable at 12.5% (E-1) since it was not covered by any other entry. Saline water and distilled water were taxable at 5%, being included in the notification dated 23rd Nov. 2005 [Notfn. No. VAT-1505/CR-233/Taxation-1] issued under schedule entry C-107 (8). From 1st April 2016, saline water and distilled water would be taxable at 5.5% like other commodities in Schedule 'C'.

Rate of tax on sterile water for injection has been reduced to 5.5% w.e.f. 1st April 2016. [New clause (d) inserted in Sch. entry C-29A]

v. Edible oils, vegetable oils and Coconut oil:

Schedule entry C-30 covered "*edible oil, edible oil in unrefined form and oil cakes excluding sarki pend* " and was taxable at 5% up to 31st March 2016. Schedule entry C-102 covered "*vegetable oil including gingili oil, castor oil and bran oil*" and was also taxable at 5%. Thus, two similar sets of commodities were covered by two different schedule entries. The commodities covered in these two schedule entries have now been clubbed together in entry C-30 for the ease of the trade. Rate of tax on these commodities would be 5.5% w.e.f. 1st April 2016. [Entry C-30 substituted and C-102 deleted]

In Maharashtra, coconut oil is not used as cooking oil in most of the households, but is predominantly used as hair oil. Hair oil per se is taxable at 12.5%. However, the coconut oil, even though used as hair oil, was getting classified as edible oil and was being taxed at the rate of 5%.

The said entry C-30 now carries an Explanation to declare that coconut oil sold in packaging upto 500 ml or its equivalence in weight are deemed to be not covered by this entry. Therefore, w.e.f. 1st April 2016, coconut oil sold in such packaging becomes taxable at 12.5%. At the same time, care has also been taken to ensure that those very few, who use coconut oil as edible oil are not affected by this increase in tax rate. Accordingly, coconut oil sold in packaging of more than 500 ml as well as coconut oil sold loose, irrespective of quantity would continue to enjoy lower rate of 5.5%, being covered by entry C-30.

vi. Pyrolysis oil:

Pyrolysis oil is made from plastic scrap and other organic waste. Pyrolysis oil is used as fuel in boilers, furnaces etc. Pyrolysis oil was taxable at 12.5% being covered by the residuary entry up to 31st March 2016. Rate of tax on Pyrolysis oil is reduced to 5.5% w.e.f. 1st April 2016. *[New entry C-79A inserted]*

vii. Repossessed vehicles:

Sale of motor vehicles is taxable at 12.5% *[E-1]*. For the benefit of second hand motor vehicle dealers, a composition scheme has already been provided u/s 42, under which these dealers can pay 12.5% on 15% of the actual sales price of a vehicle, which effectively comes to 1.875% of the actual sales price. However, sale of vehicles, which are repossessed by banks and financial institutions, was being taxed at 12.5%.

From 1st April 2016, rate of tax on sales of repossessed vehicles by banks and financial institutions is reduced to 5.5%. *[New entry 82B inserted in Sch. C]*. However, to claim benefit of this lower rate, such banks and financial institutions would be required to prove that either sales tax or entry tax has been paid in Maharashtra at an earlier stage, in respect of such a vehicle.

viii. Certain stationery items added:

Certain stationery items i.e. pencil box, gum, glue sticks, stapler pins, tape dispensers, dusters, files, which were taxable at 12.5% are now taxable at 5.5% w.e.f. 1st April 2016. *[Sch. entry C-104(c) amended]*

It is clarified that the “dusters”, now inserted in C-104 are dusters, which are normally used as a stationery item. While the “dusters” specified in the notification dated 1st June 2005 *[VAT-1505/CR-109/Taxation-1]* issued under Schedule entry A-1 *[agricultural implements]* would continue to be tax-free. Similarly, “dusters” specified in the notification *[No. VAT-1505/CR-118/Taxation-1 dated 1st June 2005]* issued under entry C-81(b) continues to be covered by the said notification even after this amendment.

ix. Sweet corn:

In a DDQ order passed by the Commissioner in the case of Hak Agro, it was held that sweet corn is covered under C-II-11

of the BST Act, which was an entry for *food stuffs and food provisions*. Larger Bench of the Tribunal held that it is a cereal and hence tax free, against which the Department has filed a Reference Application before the High Court.

In the meanwhile, to make the matters clear for the dealers, as well as the departmental authorities, a new clause (g) has been added to entry C-108 so as to expressly cover sweet corn at 5.5% w.e.f. 1st April 2016. The new Schedule entry C-107(g) covers processed, semi-processed, semi-cooked, ready-mix, ready to eat, shelled sweet corn irrespective of the fact as to whether the sweet corn is sold in a frozen state, or in a sealed container or under a brand name. However, if the sweet corn is served for consumption, then it shall be taxable at the rate of 12.5%.

x. Tea:

Tea in leaf or powder form including instant tea was taxable at a concessional rate of 5% upto 31st March 2016. This concession is now extended up to 31st March 2017 but the rate of tax is 5.5% as other commodities in Schedule 'C'. [Entry C-108]

xi. LED tube lights:

Rate of tax on LED bulbs is reduced to 5% from 12.5% w.e.f. 1st April 2015 [C-111]. Now, w.e.f. 1st April 2016, the rate of tax on LED tube lights is reduced from 12.5% to 5.5% and therefore both LED bulbs and tube lights are now taxable at the rate of 5.5%. [Entry C-111, amended].

xii. Goods, covered by Sch. Entry C-55 & C-55B:

Iron and steel, specified in entry C-55 is declared goods under section 14 of the Central Sales Tax Act.

Entries C-55A and C-55B were inserted on 1st May 2014, which covered tool, alloy and special steels of any of the categories, specified in clause (x) to (xv) of entry 55. Entry C-55A was inserted to cover the sales of these goods during the period from 1st April 2005 to the 30th April 2011. Entry C-55B was inserted to cover the sales of these goods from 1st May 2011 onwards. These amendments were made in view of the Supreme Court judgment in the case of Bansal Wire Industries (42 VST 372). The Supreme Court has interpreted that tool,

alloy and special steels, of the categories, mentioned in clauses (x) to (xv), would not be 'declared goods' under section 14 of the Central Sales Tax Act.

Thus, in view of this Supreme Court judgment, the goods, covered by entry C-55A and C-55B are not 'declared goods'.

This issue has already been clarified in detail by Trade Circular No. 11T dated 4th April 2014 and 15T dated 6th August 2014.

Now, by the notification referred at sr. 1 above, the rate of tax on goods covered in entry C-55B has been increased from 5% to 5.5%, like all other non-declared goods in Schedule 'C'. But rate of tax on the goods, covered by entry C-55 remains 5% since these are 'declared goods'.

Part II

Amendments to the Composition Scheme Notification u/s 42

Notification No. VAT-1505/CR-105/Taxation-1 dated 1st June 2005, issued u/s 42 provides for composition schemes for restaurants, bakers, retailers and second hand motor vehicle dealers.

Certain amendments have been made, w.e.f. 1st April 2016, by notification dated 30th March 2016 [Notification No. VAT-1516/CR-51/Taxation-1] to the said notification. The amendments are explained as follows:

A. Restaurant composition scheme-revision in rates:

Up to 31st March 2016, the composition amount rates for a restaurant, eating house etc. was 5% in case of a registered dealer and 10% in case of an unregistered dealer. These rates were irrespective of the turnover of sales of food and non-alcoholic drinks of the composition dealer.

From 1st April 2016, the composition amount rates have been linked with such turnover of sales of the registered dealer for the previous year.

A dealer (RD), whose turnover of sales of food and non-alcoholic drinks in the previous year, to which he desires to opt for the Composition Scheme, is Rs. 3 crore or below would be

liable to pay composition amount at the rate of 5% of such turnover.

A dealer (RD), whose turnover of such sales, in the previous year, exceeds Rs. 3 crore would be liable to pay composition amount at the rate of 8%.

The composition amount rate, in case of an unregistered dealer continues to be 10%.

It is clarified that:

- a) For the purpose of computing the above referred turnover limits, the turnover of sales of food and non-alcoholic drinks shall only be taken into consideration.
- b) Secondly, the composition amount rates of 5%, 8% and 10% are applicable to the turnover of sales of foods and non-alcoholic drinks.
- c) The scheme of taxation of liquor, in case of a dealer, who also serves alcoholic drinks, remains same.
- d) In case, any dealer desires to opt in or opt out of the Composition Scheme, then he may opt in or out by making an application to the Joint Commissioner of the concerned Nodal Division or VAT Administration. A dealer desiring to opt out or opt in may apply on or before 15th May 2016.
- e) The dealer who opts out or, as the case may be, ceases to be eligible for the composition scheme, may claim set-off in his first return as a non-composition dealer, after opting out of composition scheme on the purchases of goods which are held in stock on the date of opting out of the composition scheme and on which he had not claimed set-off earlier.
- f) The dealer opting for the composition scheme under this notification shall reverse the set-off, claimed by him on the purchase of goods which are held in the stock on the date of opting for the composition scheme. Such amount of set-off shall be paid by him along with his first return of composition scheme, after opting for the composition scheme.

B. Baker Composition Scheme:

A baker, registered under VAT Act, who opts for the baker Composition Scheme was required to pay composition amount of 4% on the turnover of sales of all bakery products, including bread in loaf, rolls or in slices, toasted or otherwise. The composition rate for the URD baker was 6% of such turnover. The bread, mentioned above (except pizza bread), is tax free,

being covered by Sch. entry A-7. The deduction of these tax free goods was not available for the purpose of payment of composition amount.

From 1st April 2016, a baker (both RD and URD), who has opted for the composition scheme becomes eligible to deduct the turnover of sales of such bread, while making the payment of composition amount.

The condition regarding turnover limit for the Baker Composition Scheme remains same at Rs. 50 lakh.

C. Retailer Composition Scheme:

A simplified composition scheme for retailers has been introduced from 1st October 2014. A detailed Trade Circular has been issued on 20th September 2014 to explain the features of the said scheme. [*Trade Cir. No.17T of 2014*]

A dealer, whose turnover of sales during the previous year is upto Rs. 50 lakh was eligible to opt for this composition scheme.

Now, this turnover limit has been increased to Rs. 1 crore. Therefore, from 1st April 2016, a dealer, whose turnover of sales in the previous year is up to Rs. 1 crore would be eligible for the Retailer Composition Scheme.

A dealer, who has not opted for this composition but who desires to opt for this composition scheme would be required to upload an application in Form 4A on the Department's website on or before 30th April 2016. A retailer, who had already opted for this Composition Scheme need not apply in order to continue in the scheme even if his turnover of sales may have exceeded Rs. 50 lakh but is up to Rs. 1 crore in the previous year.

Earlier, Retailer Composition dealer was required to file six-monthly returns, as stipulated in condition no. (vi) of entry 3 of the said notification dated 21st August 2014. Now, from 1st April 2016 such Retailer Composition dealers shall file returns, as per the provisions of rule, applicable to any other non-composition dealer.

D. Application for composition scheme:

As the Trade is aware, the Sales Tax Department has been restructured [*For details see Trade Cir. No. 20T of 2015 dated 31st Dec. 2015*]. In view of this restructuring, instead of the functional

divisions in Mumbai and Pune, Nodal Divisions have been formed, which are headed by the Joint Commissioner of Sales Tax. In rest of Maharashtra, the concerned Joint Commissioner continues to head the Division.

It is clarified that an application for composition shall be made by a dealer in Mumbai and Pune to the Joint Commissioner of the concerned Nodal Division. Rest of the dealers in the State shall make an application to the Joint Commissioner (VAT Administration), concerned, as earlier. Of course, a retailer, who desires to opt in or opt out of the Retailer Composition Scheme is required to upload application in Form 4A or Form 4B, respectively on the Department's website.

Part III

Amendment to Schedule of Entry Tax on Goods Act

Tiles of marble and granite were liable to Entry Tax under entry 15 of the Entry Tax at 12.5%. Now, the said entry has been amended to include slabs of marble and granite also. Therefore, entry of slabs of marble and granite shall be liable to entry tax at the rate of 12.5% w.e.f. 1st April 2016.

2. You are requested to bring the contents of this circular to the notice of all the members of your association.



(Rajiv Jalota)
Commissioner of Sales Tax,
Maharashtra State.

No.VAT/AMD-2016/1C/6/Adm-8

Trade Cir. of T of 2016

Mumbai Dt: 22/04/2016

Copy forwarded to the Joint Commissioner of Sales Tax (Mahavikas) with a request to upload this Trade Circular on the Departments web-site.



(D.M.Thorat)
Joint Commissioner of Sales Tax (HQ)1,
Maharashtra State, Mumbai.