

RECENT AMENDMENTS
INDVAT-16

BY: CA VIJAY KUMAR GUPTA

Introduction

- To amend DVAT-16 of Delhi VAT Act, the Government passed a notification on 17.03.2010 vide notification no. F.3(27)/Fin(T&E)/2009-10/Jsfin/195.
- But Annexure 2A and 2B has been notified w.e.f 07.05.2010.

Amendments in DVAT-16- A

Glance

- A row has been added as row no. 5.2(1) for providing the sale figure of goods taxable @5%.
- Rows 5.5 and 5.6 has been added for providing the figures of work contract sales to be taxed at 4% or 12.5%. The figures of purchases should be inclusive of input tax.

- The figure of deducted amount as per Rule 3 of DVAT Rules 2005 from the work contract sale figures has to be reflected in exempted sales column.
- Bifurcation of purchases in tax rate wise purchase in rows R6.2(1) to R6.2(8).

- A specific row 11.7(1) has been added to provide the figure of exempted sale/ purchase including high seas sales for which there was no column earlier.
- Row 3.15 has been inserted in Annexure 3 for providing the figures of reduction in input tax credit due to sale of goods at price lower than the purchase price.

- Another change is made in Annexure A.3 by inserting a row A.3.16 for providing the figures of second or third installment of balance tax credit on capital goods.
- Row 3.17 has been inserted in Annexure A.3 for providing the figures of opening stock. (There is no need to give the value of stock, only the amount of input tax credit involved in the value of stock is to be given).

- Row 3.18 has been inserted in Annexure A.3 for providing the figures of closing stock. (There is no need to give the value of stock, only the amount of input tax credit involved in the value of stock is to be given).

Amendments In DVAT-16

1) A row has been added as row no.5.2(1) where the details of goods sold which are taxable @5% is sought. It is the consequential effect of change in tax rate on all the items specified in 3rd Schedule of DVAT-04 except declared goods. The tax rate has been increased to 5%. However the tax rate on declared goods have remain same as 4% due to the restrictions imposed on the State as per Sec.15 of CST Act,1956.

2) A row has been added for work contract sales to be taxed at 4% or 12.5%. The figures in R5.5 and R5.6 is to be filed on net basis i.e. after the statutory declaration of Rule 3 of DVAT Rule 2005.

3) The figure of deducted amount from the work contract sale figures has to be reflected in exempted sales column. In nut shell the gross sales should include the total sales figure of WCT sales.

4) The next change is bifurcation of purchases in tax rate wise purchase. Here we have to fill the figure of purchases inclusive of input tax. This was clarified long back in 2005, but still many dealers are filing the figures net of tax.

5) In DVAT-16 a specific row 11.7(1) has been added to provide the figure of exempted sale/purchases including high seas sales for which there was no column earlier.

6) The next change is made in Annexure A.3 by inserting a row A.3.16 where a specific row has been added to provide the figures of 2nd and 3rd installment of deferred tax on the purchase of capital goods as per Section 9(4) of DVAT-2004.

7) The one of the most significant change is made by inserting row R3.15 on Ann.3 in which figures of Reduction In input tax credit due to sale of goods at price lower than the purchase price has to be mentioned. To fill this figure, we have to understand the provision of Rule 6A of DVAT Rules 2005.

Section 10(5)- Adjustments to tax credit

- *Where the goods which have been purchased by a dealer are sold at a price lower than the price at which it was purchased by the dealer, the tax credit on such purchases shall be reduced proportionately in the tax period during which the goods are sold.*

- Explanation . – *The tax credit claimed on a particular purchase shall not exceed the amount of tax payable on its sale.*

Rule 6A(3 & 4)of DVAT

Rules,2005:-

- *The provisions of sub-section (5) of section 10 of the act relating to proportionate reduction of tax credit on purchases of goods sold at a price lower than the purchase price shall apply to the cases where, during the tax period, the dealer receives credit note or notes from the selling dealer on account of discount, commission, rebate, remission, in price or incentive, or by whatever name called.*

- Explanation – for the removal of doubt, it is hereby clarified that the provisions of sub-section (5) of section 10 of the Act shall not apply to a case where in the ordinary course of business the goods are sold by a dealer at a loss.

- *In the cases where the sale has been made at price lower than the purchase price in pursuance of the administered prices of the oil companies, that is to say, Indian Oil Corporation, Hindustan Petroleum Corporation Ltd. And Bharat Petroleum Corporation Ltd. the provisions of section 10(5) shall not apply.]*

Illustrations to Section 10(5):-

1) A dealer purchases 2000 pieces of watches at Rs.200/-. He sells 1950 pieces at Rs.220/- and rest 50 pieces at Rs.170/-. This section will be applied in respect of 50 pieces even if he has made profit from the whole business.

2) Another illustration, a dealer is engaged in such business where prices are regulated either by the Government or through some recognized market forces such as commodity exchange. He purchases gold at Rs.18000/- per 10 gram. Next day the price is Rs.17200/- and he had to sell the goods. This section would not be applicable in such case.

3) An amount of original purchase bill is Rs.1000/-, amount of sale bill is Rs.950/- and amount of credit note received is Rs.100/-, whether the dealer is selling goods at profit or loss, the obvious answer is at profit. In such case, the provisions of section 10(5) read with Rule 6A(3) could not be invoked but the dealer has to reverse the input tax suo motto on the credit note of Rs.100/=.

Section 9 – Input credit on closing stock.

- The most important amendment made which is affecting most of the dealers is to restrict a tax credit of Input tax of the goods until they are put to sale. By plain reading of Section 9(1) of DVAT Act 2004 along with Rule 6A(1) of DVAT Rules 2005 we can easily understand the term put to sale means actual sales.

Row A3.17 and 3.18 has been inserted in which tax effect of opening and closing stock of the tax period has to be mentioned in the form DVAT-16. To fill this figure firstly we have to understand Section 9(1) of DVAT Act 2004 read with Rule 6A(1) of DVAT Rules 2005.

- Sec. (1) Subject to sub- section (2) of this section and such conditions, restrictions, and limitations as may be prescribed, a dealer who is registered or is required to be registered under this Act shall be entitled to a tax credit in respect of the turnover of purchases occurring during the tax period 2 [*to the extent of proportion of the goods which have been put to sale*]

in the course of his activities as a dealer and the goods are to be used by him directly or indirectly for the purpose of making :-

- Sales which are liable to tax under section 3 of this Act i.e. local sales or,
- Sales which are not liable to tax under section 7 of this Act i.e. in the course of inter-state trade or commerce or outside Delhi or in the course of import of the goods into or export of the goods out of, the territory of India.

- Explanation. - Sales which are not liable to tax under section 7 of this Act involve exports from Delhi where to other states or Union territories or to foreign countries.]

Rule 6A(1) of DVAT Rules, 2005

- *For the purpose of working out the entitlement of tax credit under sub-section (1) of section 9 of the Act to the extent of proportion of the goods which have been put to sale during the tax period, the input tax credit on the closing stock available with the dealer at the end of every tax period shall be carried forward to the next tax period or the following tax period or periods, as the case may be, till such stock is sold by the dealer:*

■ **PROVIDED** that this sub-rule shall not prevent the claim of refund of a dealer for sales already effected during the relevant tax period or to a dealer who makes sales in the course of exports out of India , or in the course of inter-state trade and commerce, or, in such cases where the dealer being a manufacturer is required to make purchases of raw materials taxable at a higher rate, while the sale of goods manufactured by him (not being goods exempt under section 6 as specified in first schedule to the Act) are taxable at the lower rate under the Act.

Methods for determination of ITC on Closing Stock

1. Actual Calculation Method
2. Proportionate/Average Method
3. Estimation Method

Input Tax Credit – 9(1)

- Precautions – Proportion method giving absurd results
 - If the dealer is dealing in X & Y items, both are taxable at same rate. X is wholly imported Y is purchased locally only. All the local purchases are sold out. Dealer has stock of only imported goods.
 - It is better to maintain separate account of both the items instead of using proportionate method.

Input Tax Credit – 9(1)

- Estimation Method
- Using the best prudence to calculate tax-rate wise closing stock at the end of every tax period.
- It should be fair and reasonable using the past experience of the dealer.
- It should be used only in exceptional circumstances.

Illustrations to Section 9

1. Where actual books of accounts are maintained:-

Opening stock of jewellery on 01-04-2010	5.00kgs	75,00,000.00	
C/f Input vat			NIL
Locally purchased goods	2.00kgs	32,00,000.00	32,000.00
Centrally purchased goods	1.00kgs	16,50,000.00	NIL
Local sales	7.00kgs	1,19,00,000.00	1,19,000.00
Closing stock as on 30.04.2010	1.00kgs	16,50,000.00	
Input tax to be c/f on closing stock (as all locally purchased goods sold)			NIL
Tax to be paid			87,000.00

2) Where actual books of accounts are maintained:-

Opening stock of jewellery on 01-04-2010	5.00kgs	75,00,000.00	
C/f Input vat			NIL
Locally purchased goods	2.00kgs	32,00,000.00	32000.00
Centrally purchased goods	1.00kgs	16,50,000.00	NIL
Local sales	6.00kgs	1,08,00,000.00	1,08,000.00
Closing stock as on 30.04.2010	2.00kgs	32,50,000.00	
Input tax to be c/f on closing stock (as ½ of the locally purchased goods are remain unsold)			16,000.00
Tax to be paid			92,000.00

Where Stock records are not maintained:-

3) Tax Rate 5% - G.P. Ratio assumed at 20% of sale price

	Opening Stock	Local Purchases	Local Sales	Sales (at cost price)	Closing Stock
Turnover	---	400000	420000	378000	22000
DVAT @ 5%	----	--	21000	-----	-----
ITC	----	20000	*18900	-----	1000
Tax Payable	----	-----	2100	-----	-----

Notes to Illustration 3:-

- * Ratio of sales (at cost price) to Purchases=
- Sales at cost/ Total Purchase* Total ITC
378000 / 4,00,000 * 20,000=18,900.00
- *Sales figures shall be given at cost of purchase,
and not at the sale price.
- *This exercise is required for every Tax Rate wise
Purchase & Sale.

ILLUSTRATION-4

Tax Rate 5%, G.P.Rate is 20%:-

	Op.Stock	Local purchase	Central Sales	Sales (at cost price)	Closing stock
Turnover	40000	400000	420000	336000	104000
CST@2%			8400		
ITC	2000	20000	*16800		5200
Refund/cf			8400		

Notes to illustration 4)

* Sales at cost / Total purchases with opening stock x

Total ITC

336000

440000

/

22000

= 16800

x

Illustration 5)- Dealing in 5% Goods - G.P. Ratio assumed
at 20% of sale price

		Gross	Input Tax	Output/CST
Op. Stock (Local)		1,00,000	2,000	
Local Purchases	5%	1,00,000	5,000	
Central Purchases	2%	2,00,000	NIL	
Local Sales	5%	1,50,000		7,500
Central Sales	2%	2,50,000		5,000
Cost of Goods Sold (80%)		3,20,000		
Closing Stock		80,000		*1,400
Tax Payable				6,900 (12,500-5,600)

- Workings:-
- Total Purchases plus stock – 4,00,000
- Cost of Goods Sold - 3,20,000
- Ratio of sales (at cost) : Total Inwards –
3,20,000 : 4,00,000 = 80%
- Total Input Tax Credit - 7,000
- Eligible ITC (ITC) - 5,600 (80% of total)
- Closing Stock of ITC - 1,400

ILLUSTRATION-6

Leasing Company

- For example, a leasing company purchases a car for Rs. 9 lacs and makes sale on lease basis for Rs. 12 lacs, where the amount receivable is Rs.40,000/- per month for 30 months. Therefore, Gp margin is 20%.
- In the first month of the lease, he makes sale (receives installment) of Rs.40,000/-; therefore, his closing stock at that month would be Rs. 8,70,000- [9,00,000 – (40,000 – (25% of 40,000))] and he will not be eligible for input tax credit on such closing stock in the first month, which will be claimed during every subsequent months when installments of lease (i.e., the date of making of sale) are received/receivable on proportionate basis

■ 7) A. Break-up of Opening Stock and ITC
as on 31.03.2010

- 5% local Purchases - 2,00,000 -10,000
- 10% Local Purchases - 1,00,000 -
10,000
- Central Purchases (10%)-2,80,000 - Nil
- Total Input Tax C/F - - -15,000
- Assuming FIFO Method is applied for
Inventory

■ B) Details for the Tax Period April 2010

■ B.1 Purchases:

	GROSS	TAX
5% Local Purchases	300000	15000
10% Local Purchases	200000	20000
Central Purchases(10%)	100000	NIL

B.2 Sales:

	GROSS	TAX	SALES (AT COST)
5% Local Sale	1000000	5000	80000
10% Local Sale	3000000	30000	240000
Central Sales @2% (10%)	3000000	6000	240000

C) Determination of Closing Stock and Input Tax Credit

C1-Closing Stock

	Op. Stock	Purchase	Sales (at cost)	Cl. Stock
5% goods	200000	300000	80000	420000
10% goods (including central purchase)	380000	300000	480000	200000 (66% of purchases)

C2- Input Tax credit:-

	Op.stock	Purchase	Eligible	Cl.Stock
5%goods		15000	NIL	15000
10%goods		20000	6666	13334 (66% of ITC)

C3- Tax Payable

C/f from last return	ITC during the month	Closing stock	Output tax	Tax payable
15000	35000	28334	41000	19334 (41000- 15000- 6666)

THANK YOU

CA Vijay Kumar Gupta

Ph.no.-9868826026