**Frequently Asked Questions on Audit under Tamil Nadu VAT Act, 2006**

**(TNVAT Act, 2006)**

1. How the turnover is calculated to ascertain the applicability of Tamil Nadu VAT Audit?

Turnover for VAT audit includes Zero rated sales and Inter State sales as per Section 3 of the CST Act, 1956. The term “turnover” is aggregate of sales turnover plus the purchases turnover assessable to tax under Section 12 of Tamil Nadu VAT Act, 2006.

2. When purchase turnover is to be included as turnover?

Section 12 mentions the circumstances where tax is leviable on purchase turnover. In such cases, purchase turnover is included as turnover.

3. Whether Tamil Nadu VAT audit is applicable by including all business turnover of same assessee or single business turnover alone to be considered?

The provision relating to Tamil Nadu VAT audit applies to every registered dealer of all his businesses effecting aggregate of turnover in excess of Rs.100 lakhs.

4. Whether Stock Transfer (both within the State & outside the State) to be included in turnover or not?

Stock Transfer is to be included in turnover when the goods move from Tamil Nadu to places situated outside the State of Tamil Nadu.

Total turnover = Taxable turnover + Sales of exempt goods + Value of Stock Transfer + Purchases assessable to tax u/s 12 + Zero Rated Sales

5. Whether the Consignment turnover or Agency turnover is to be included in Agent's turnover or Principle's turnover?

Consignment turnover or Agency turnover is to be included in Agent's turnover if he is an agent of a Non-resident Principal. If the Agent is an agent of a Resident Principal, it is the Principal who is liable under this Act.

6. How the trade discount, cash discount and quantity discount are dealt in arriving the sales turnover?

Discount allowed in the invoice itself is not liable for VAT and may not be part of turnover assessable to VAT. In other situations, the gross sale value is to be considered for working out the VAT liability and other discounts may be part of turnover.

7. The assessee who opts the composition scheme, what is the turnover to be reported?

(a) The dealers who opted to pay tax under the composition scheme on his total turnover not exceeding Rs. 50 lakhs, to report sales turnover and purchases turnover liable for taxation as their taxable turnover.

(b) The dealers in hotels and restaurants, who opted to pay tax under the composition scheme, are to report sales turnover and purchases turnover liable for taxation as their turnover.

In respect of (a) and (b), there shall not be any Tamil Nadu VAT audit as their turnover is less than the prescribed Rs.100 lakhs.

(c) In case of works contractors who opted to pay tax under the composition scheme is to pay tax on the whole contract value. Refer Section 6, 7 and 8 of TNVAT Act, 2006.

8. What is the time limit to take VAT Input Tax Credit?

The Input Tax Credit on purchases can be claimed during the month of receipt of goods, if supported by original tax invoice containing prescribed particulars. If input tax credit omitted to be claimed during the month of purchase it can be claimed within 90 days from the date of purchase or before the end of the financial year, whichever is later.

9. Can the assessee can take input credit on items not related to his business operations either as a manufacturer or as a trader. Eg: Stationary, Maintenance Spares, etc.

Input credit cannot be claimed on purchase of stationery, maintenance spares, if the dealer is other than a dealer in such goods.

10. What are the situations where input tax credit has to be reversed and quantum of credit to be reversed?

Certain situations in respect of which input tax reversals to be made are – sale of exempted goods, sales without C/F Forms, etc. Certain other prescribed situations are:

• Input tax credit was availed but subsequently the related goods have been stolen or damaged or destroyed.

• Input tax credit was claimed but subsequently it has been detected that related purchases are from bogus traders (bill traders).

• Input tax credit was availed but related goods have been given as free sample or gift to others.

• Input tax credit availed but subsequently the related goods are used to provide facility to the proprietor/partner/director of the concern.

Refer Section 19, Rule 10 of the TNVAT Act, 2006 and the Rules made there under.

11. Can assessee claim input tax credit when purchase tax is paid?

Input tax credit in respect of purchases tax paid can be claimed and availed, if eligible.

12. How the input on capital goods can be availed and what records are to be maintained for availment of the credit?

Every registered dealer who claims input tax credit on capital goods shall maintain input tax adjustment account for each capital good separately with the following particulars, namely:-

• Original invoice

• Month and Year of purchase

• Date of commencement of commercial production and its intimation

• Value of capital goods

• Rate of tax

• Tax paid

• Tax credit availed:

􀂃 First year not exceeding 50%

􀂃 Second year

􀂃 Third year

• Tax reversals

• Tax lapsed

Such details and data have to be maintained for a period of five years.

13. Whether the person paying VAT as lease tax (right to use tax) under Section 4 of TNVAT Act, 2006 can claim input credit?

The lessee is entitled to claim input credit on goods taken on lease as per Section 4 and avail the same if otherwise eligible as per the Act.

14. What is Industrial Input? How Industrial Inputs can be purchased at a reduced rate?

• The Industrial Inputs are those goods which are notified by Government and generally go into manufacture of other goods and they are taxable at 5%.

• The purchaser of Industrial Input shall issue a certificate to the seller containing the following details:

􀂃 TIN of the purchaser

􀂃 Name and address and TIN of the seller

􀂃 Description of goods purchased

􀂃 Description of goods manufactured

• No time limit is specified for issuing the certificate by the purchaser. Hence, the certificate may be issued by the purchaser within a reasonable time. If the certificate prescribed is not available, the beneficial rate of tax at 5% may not be applicable. As per the GO 145 dated 16.07.07, goods mentioned under the entry 67A of part B which are industrial inputs is liable

for taxation at 5% even if it is sold through traders.

15. If discount is allowed on purchases, whether VAT credit taken has to be reversed or not?

Discount allowed in the invoice itself is not liable for VAT. In other situations, the gross purchase value less discount is to be considered for working out the effective VAT input claim.

16. What is the time limit of filing of revised return?

If there is any omission or error in the returns filed a revised return can be filed rectifying the omission or error within a period of 6 months from the last day of the relevant period to which the returns relates, before issue of any notice, detection by department.

17. What is the number of years the books & records are to be preserved?

Accounts maintained by a registered dealer shall be preserved by him for a period of six years from the date of assessment.

18. Can an assessee file an annual return after finalization his books of accounts?

An assessee who is not liable to pay tax under this tax is alone entitled to file Form I-1 Annual return, on or before the 20th day of May of the succeeding year showing the total turnover in respect of all goods dealt with by him.

19. Whether the Delivery Challan is a must for transporting the goods?

When the good movement is accompanied by a bill of sale or invoice, there is no requirement to use the prescribed Form JJ Delivery Challans, for all other type of goods movement, the Form JJ Delivery Challans is to be used.

20. What is meant by Zero Rated Sale?

Subsection (44) of Section 2, of the Act, defines the term. “Zero rated sale” means a sale of any goods on which no tax is chargeable but credit for the input tax related to that sale is admissible. Section 18 lists out various types of Zero rated sales which includes – sales to International Organizations like, UN bodies, consulate offices, etc and includes direct exports falling under Section 5(1) of CST Act and sales in the course of export falling u/s 5(3) of the CST Act, 1956.

What is the time limit for sales return and how the tax paid on sales can be adjusted?

Sales returns effected within six months from the date sale can be claimed as deduction from the turnover, provided the sales return value is refunded to the customer and the date of sale with tax amount is separately shown in the credit note and such sales returns is recorded in the books of accounts.

21. When tax on lease or tax on transfer of right to use goods is to be levied?

Tax due on lease transactions is to be paid on or before 20th (12th for dealers effecting turnover more than Rs. 200 crores) of every month relating to the lease rentals receivable relating to the immediately preceding month. Dealers who are effecting payment, electronically are entitled to have additional two days time from the respective due date.

22. Whether C-Form is applicable on the above right to use or lease transaction?

Yes. C-Form is applicable on the above right to use or lease transaction, if otherwise eligible.

23. When the option to be exercised for composition? If composition is not opted how the works contract turnover is to be reported?

Option to be exercised by applying to the assessing authority along with the first monthly return for the financial year or in the first monthly return after the commencement of the works contract. Option once exercised shall be final for that financial year. If composition is not opted, the Section 5 and Rule 8 of the TNVAT Act and the Rules there under to be followed. The deemed sale value involved is the basis to arrive at the output tax in respect of each goods and the output tax is worked out at the applicable VAT rate mentioned in the schedules to the Act, for the goods involved. If the labour and other like charges are not ascertainable from the books and records refer Rule 8(5) arrive at the tax turnover.

24. Can the assessee purchase goods against C Form on works contract?

Yes, if the works contractor is eligible to purchase against C Form as per Section 8 of the Act.

25. Can the assessee file both Form I and Form L for trading and works contract separately?

Yes, they can file both the Forms.

26. If TDS certificate is not received but TDS has been deducted by the contracted how the claim can be established?

Without TDS certificate in original tax deduction cannot be claimed.

***Source: Technical Guide on TNVAT audit published by ICAI.***

***Date: 11/11/2013***