

## **CHAPTER III**

### **Special Regimes**

#### **13 Priority**

Where a provision in this Chapter is inconsistent with a provision in Chapter II, the provision in this Chapter shall, to the extent of the inconsistency, prevail.

#### **14 Treatment of stock brought forward during transition**

(1) Within a period of four months of the commencement of this Act, all registered dealers wishing to claim the credit referred to in sub-section (2) of this section, shall furnish to the Commissioner a statement of their trading stock, raw materials and packaging materials for trading stock (in this section referred to as “opening stock”) which –

- (a) is held in Delhi on the date of the commencement of this Act;
- (b) was purchased by the dealer after the first day of April 2004;  
in such form as may be prescribed.

(2) If –

- (a) the dealer has furnished the statement referred to in sub-section (1) of this section;
- (b) the opening stock has borne tax under the Delhi Sales Tax Act, 1975 (43 of 1975) at the point specified by the Government under section 5 of the said Act; and
- (c) the opening stock has been purchased by the dealer from a registered dealer for such purposes as are specified in sub-section (1) of section 9 of this Act;

the amount of tax borne under the Delhi Sales Tax Act, 1975 (43 of 1975) on such opening stock, determined in such manner and subject to such conditions and restrictions and up to the extent as may be prescribed, shall be credited to the registered dealer as a tax credit under section 9 of this Act:

PROVIDED that no tax credit under this section shall be allowed unless the dealer has in his possession, invoices issued by a dealer registered under the Delhi Sales Tax Act, 1975 (43 of 1975) in respect of the purchases of the said goods:

PROVIDED FURTHER that the dealer shall claim the entire amount of credit to which he is entitled in a single statement, which accompanies a return furnished under this Act.

- (3) For the avoidance of doubt, no tax credit under sub-section (2) of this section can be claimed -
  - (a) for finished goods manufactured out of tax paid raw material or capital goods;
  - (b) for any goods that were taxable at last point under the Delhi Sales Tax Act, 1975 (43 of 1975) held at the time of the commencement of this Act;
  - (c) in a statement furnished more than four months after the commencement of this Act; or
  - (d) for opening stock which is held outside Delhi.

<sup>1</sup>[(4) Every dealer wishing to claim a tax credit in excess of one lakh rupees on opening stock shall furnish with the statement a certificate signed by an accountant in the prescribed form certifying that the net credit claim made is true and correct.]

<sup>2</sup>[\*\*\*]

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<sup>1</sup> Substituted vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>2</sup> Sub-sections (5) & (6) of Section 14 omitted vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

**15 Second-hand goods**

(1) This section applies where –

(a) a registered dealer sells second-hand goods;

(b) the registered dealer has purchased goods from a resident seller who was not registered under this Act;

<sup>1</sup>[(c) the goods were purchased either as trading stock for re-sale in an unmodified form or otherwise or as raw material for incorporation or division into trading stock;]

(d) the registered dealer will be liable to tax under section 3 of this Act on the sale of the goods or the goods into which they were incorporated, as the case may be; and

(e) the registered dealer has adequate proof of the amount paid for the goods.

(2) In the circumstances mentioned in sub-section (1) of this section, the registered dealer shall be entitled to a tax credit for the purposes of section 9 of this Act of the least of –

(a) the input tax borne by the resident seller when he purchased the goods;

(b) the tax fraction of the original cost of the goods to the resident seller;

(c) the tax fraction of the fair market value of the goods at the time of their purchase by the registered dealer; or

(d) the tax fraction of the consideration paid by the registered dealer for the goods.

<sup>2</sup>[*Explanation I.*- For the purpose of this sub-section, the words “input tax borne” means the tax paid by the resident seller under the Delhi Sales Tax Act, 1975 (Act 43 of 1975) or under this Act and the word “tax fraction” shall be construed accordingly.

*Explanation II.*- This section shall apply only if the resident seller had purchased goods in Delhi.]

(3) Where the amount paid by the registered dealer for the goods exceeds two thousand rupees, the tax credit shall be allowed in the tax period when the goods are sold by the registered dealer or the goods into which they have been incorporated are sold by the registered dealer.

**16 Composition scheme for specified dealers**

(1) Notwithstanding anything contained <sup>3</sup>[to the contrary] in this Act, every dealer whose –

(a) turnover in the year preceding the commencement of this Act; or

(b) turnover in the current year,

<sup>4</sup>[\*\*\*] does not exceed <sup>5</sup>[fifty lakh] rupees or such other amount as may be specified by the Government by notification in the official Gazette, shall have an option to pay tax under this section:

PROVIDED that this section shall not apply to dealers procuring goods from any place

<sup>1</sup> Substituted vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 01.04.2005, retrospectively, earlier read as “(c)the goods were purchased either as trading stock for re-sale in an unmodified form or otherwise or as raw material for incorporation or division into trading stock;”

<sup>2</sup> Inserted vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 01.04.2005, retrospectively.

<sup>3</sup> Inserted vide DVAT (Amendment) Act, 2005; No.F.14(6)/LA 2005/112, dt. 28.03.2005 w.e.f. 01.04.2005,

<sup>4</sup> Omitted the words “exceeds the taxable quantum under this Act, but” vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 16.11.2005.

<sup>5</sup> Substituted for the words “twenty five lakh” vide DVAT (Amendment) Act, 2005; No.F.14(6)/LA 2005/112, dt. 28.03.2005 w.e.f. 01.04.2005,

outside Delhi or selling or supplying goods to any place outside Delhi at any time during the year in which he opts to pay tax under this section or if he is registered <sup>1</sup>[in Delhi] under the Central Sales Tax Act, 1956 (74 of 1956).

(2) At the time of making application for registration under section 19 of this Act, the dealer covered under sub-section (1) shall be required to specify if he intends to pay tax under this section:

PROVIDED that once the dealer chooses to pay tax under this section, the option may be reversed only after the end of the year for which the option is made, by application to the Commissioner within such time and in such manner as may be prescribed:

PROVIDED FURTHER that where a dealer chooses to reverse his option to pay tax under this section, he shall be eligible to claim credit of the tax paid under this Act on the trading stock, raw material and packaging material held by him in Delhi on the date when such reversal takes effect subject to the conditions contained in section 20 of this Act in so far as they are applicable.

(3) In case a person who <sup>2</sup>[elects] to pay tax under this section -

(a) who is registered 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) <sup>3</sup>[or the Delhi Sales Tax on Right to Use Goods Act, 2002 (Delhi Act 13 of 2002),] at the time of the commencement of this Act; and

(b) whose turnover in the year preceding the commencement of this Act <sup>4</sup>[\*\*\*] does not exceed <sup>5</sup>[fifty lakh] rupees or such other amount as may be specified by the Government by notification in the official Gazette,

he shall be required to specify the <sup>6</sup>[election] to pay tax under this section within such time and in such manner as may be prescribed.

(4) Where a dealer <sup>7</sup>[elects] to pay tax under this section, the dealer's net tax shall be the amount determined at the rate of one paisa in the rupee of the turnover of the dealer.

(5) A dealer who elects to pay tax under this section shall -

<sup>8</sup>[(a) not purchase goods from a person who is not registered under this Act:

PROVIDED that this restriction shall not apply for the purchase of goods from an un-registered dealer dealing exclusively in goods mentioned in the First Schedule;]

<sup>1</sup>Inserted vide DVAT (Amendment) Act, 2005; No.F.14(6)/LA 2005/112, dt. 28.03.2005 w.e.f. 01.04.2005,

<sup>2</sup> Substituted for the word "intends" vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>3</sup> Inserted vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>4</sup> Omitted the words "exceeds the taxable quantum under this Act, but" vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 16.11.2005.

<sup>5</sup> Substituted for the words "twenty five lakh" vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>6</sup> Substituted for the word "intention" vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>7</sup> Substituted for the word "chooses" vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>8</sup> Substituted vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 16.11.2005, earlier read as "(a) not purchase goods from a person who is not registered under this Act."

<sup>1</sup>[(b)] not compute his net tax under section 11 of this Act;  
<sup>2</sup>[(c)] not be allowed to claim credit under section 9, section 14 and section 15 of this Act;  
<sup>3</sup>[(d)] not be entitled to issue tax invoice;  
<sup>4</sup>[(e)] not be allowed to collect any amount by way of tax under this Act; and  
<sup>5</sup>[(f)] continue to retain tax invoices and retail invoices for all of his purchases as required under section 48 of this Act.

(6) In case a person -

(a) who is registered 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) <sup>6</sup>[or the Delhi Sales Tax on Right to Use Goods Act, 2002 (Delhi Act 13 of 2002),] at the time of the commencement of this Act;

(b) whose turnover in the year preceding the commencement of this Act <sup>7</sup>[\*\*\*] does not exceed <sup>8</sup>[fifty lakh] rupees or such other amount as may be specified by the Government by notification in the official Gazette; and

(c) who has opted to pay tax under this section in terms of sub-section (3) of this section, he shall be required to pay tax on the trading stock, raw material, packaging material (in this sub-section referred to as "opening stock") and finished goods held on the date of the commencement of this Act at the rates specified in section 4 of this Act on the fair market value of such opening stock and finished goods where such opening stock and finished goods have not borne tax under the Delhi Sales Tax Act, 1975 (43 of 1975).

(7) The tax due under sub-section (6) of this section shall be paid at any time before the person specifies his intention to pay tax under this section.

(8) The proof of payment of tax referred to in sub-section (6) of this section along with a statement of opening stock and finished goods in such form as may be prescribed shall be furnished to the Commissioner at the time the person specifies his intention to pay tax under this section.

(9) Subject to the other provisions of this section, where a registered dealer pays tax at the rates specified in section 4 of this Act, he may choose to pay tax under this section only from the beginning of the following year:

PROVIDED that such registered dealer shall be required to pay tax at the rates specified in section 4 of this Act on the trading stock, raw material, packaging material and finished goods held by him on the first day of the said following year.

<sup>1</sup> Re-lettered from "(a)" to "(b)" vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>2</sup> Re-lettered from "(b)" to "(c)" vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>3</sup> Re-lettered from "(c)" to "(d)" vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>4</sup> Re-lettered from "(d)" to "(e)" vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>5</sup> Re-lettered from "(e)" to "(f)" vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>6</sup> Inserted vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>7</sup> Omitted the words "exceeds the taxable quantum under this Act, but" vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 16.11.2005.

<sup>8</sup> Substituted for the words "twenty five lakh" vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>1</sup>[(10) If the turnover of a dealer who elects to pay tax under this section exceeds fifty lakh rupees or such other amount as may be specified by the Government by notification in the official Gazette, he shall be liable to pay tax under section 3 of this Act on and from the day his taxable turnover exceeds fifty lakh rupees or such other amount as may be specified by the Government by notification in the official Gazette and shall be entitled to claim credit of the input tax paid under this Act on trading stock, raw material and packaging material held by him in Delhi on such day:

PROVIDED that such dealer has intimated the Commissioner within seven days of his becoming liable to pay tax under section 3 of this Act in the prescribed form and has furnished such other information to the Commissioner as may be prescribed.

(11) The Commissioner may notify a dealer or a class of dealers who shall not be entitled to opt for payment of tax under this section.]

<sup>2</sup>[(12) Notwithstanding anything to the contrary contained in this Act, the Government may -

(a) by notification in the official Gazette, notify schemes of composition, subject to such conditions and restrictions as may be specified therein, of tax payable by a class of dealers or classes of dealers and different types of schemes may be notified for different classes of dealers;

(b) specify, in any scheme of composition of tax payable by the class of dealers or classes of dealers, different rates of taxes for different class or classes of dealers but, in such scheme, the net tax liability of the dealer opting to pay tax thereunder shall not exceed eight paise in the rupee of the turnover of the dealer.]

### <sup>3</sup>[16A Special provisions relating to casual traders

(1) Notwithstanding anything contained to the contrary in this Act, a casual trader shall -

(a) at least three days before commencing business in Delhi, inform the Commissioner of such particulars of his business in such form and manner as may be prescribed;

(b) deposit security in cash or in the form of bank draft as may be fixed by the Commissioner which shall not exceed estimated liability to pay tax for seven days or such lesser period for which the casual trader is conducting the business in Delhi;

(c) pay tax daily on the sales made during the previous day;

(d) furnish to the Commissioner, immediately after conclusion of his business in Delhi, a return in the prescribed form and manner; and

(e) not issue any tax invoice.

(2) The Commissioner shall, after verification of information furnished to him under clause (a) of sub-section (1) and after getting security under clause (b) of that sub-section, shall register the casual trader.

(3) Upon registration of casual trader, the Commissioner may issue the required forms to him for use as the declaration referred to in sub-section (2A) of section 61 of this Act for bringing goods for sale in Delhi and for taking the unsold goods out of Delhi and the casual trader shall render complete account of the used forms and surrender the unused forms alongwith the return referred to in clause (d) of sub-section (1).

(4) The Commissioner shall, after examination of the return furnished by the casual trader

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<sup>1</sup> Inserted vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

<sup>2</sup> Inserted vide DVAT (Second Amendment) Act, 2005; No.F.14(29)/LA/2005/333 dated 16.11.2005 w.e.f. 16.11.2005.

<sup>3</sup> Inserted vide DVAT (Amendment) Act, 2005; No. F.14(6)/LA-2005/112, dt. 28.03.2005 w.e.f. 01.04.2005.

under clause (d) of sub-section (1), the forms referred to in sub-section (3) and the accounts maintained by him including the retail invoices issued, assess him to tax within five days and shall serve upon him a notice of assessment and after adjusting any tax and any other dues payable under this Act, refund the balance amount of security to him in case security is deposited in the form of cash deposit.

(5) The casual trader shall pay immediately the amount mentioned in the notice of assessment.

(6) On being satisfied that the amount due has been paid, the Commissioner shall release the security or balance security, as the case may be.

(7) Notwithstanding anything contained in this Act the taxable quantum in respect of a casual trader shall be nil.]

### **17 Transactions between related parties**

If –

- (a) a registered dealer sells or gives goods to a related person;
- (b) the terms or conditions of the transaction have been influenced by the relationship; and
- (c) the related person had purchased the goods, the related person would not be entitled to a tax credit for the purchase, or the amount of the tax credit would be reduced under sub-section (3) of section 9 of this Act;

the transaction shall be deemed to be a sale made by the registered dealer and the sale price of the goods shall be deemed to be their fair market value.