

MVAT 2002

Replaces BST 1959, MST 1985.

Covers Importers., Manufacturer, Distributor, Wholesaler.

Applies to—

- Sale by a dealer,
- Of goods,
- In the course of business
- For consideration,
- Excludes sale/disposal otherwise than in course of business, gift/mortgage/ hypothecation/ pledge/ charge,
- Within the Maharashtra State,
- Excludes outside Maharashtra sale, sale in course of import/ interstate sale/ exports/**stock transfer.**

MVAT is

- Levied and collected by State Government
- Arises on sale of goods
- Charged on taxable turnover
- VAT rates differ in each state
- Charged only on sales within the state

Sec 2(4)–Business— includes any service, trade , commerce, manufacture and any adventure or concern in nature of S/T/C/M (service, trade , commerce, manufacture).

Whether or not there is profit motive and whether or not profit accrues from the STCM.

Business is purchase or manufacture of goods with intention to finally sell the goods.

DEEMED to include --

- a)Activity of **raising manmade forests**, rearing of seedlings/saplings
- b)**Purchase/sale of capital assets** .
- d)Sale or purchase of goods which would be **credited/debited to P& LA/c** of business,
- e)Transaction in connection with **commencement/ closure of business**

Bus is purch/ mfr of goods with intention to finally sell it. Only sale of goods in course of business.

Section 2(8) DEALER

Person who in the course of business, buys/sells goods in Maharashtra State for commission/remuneration- Includes--

a) factor/broker mercantile agent, commission agent, del credere agent who in the course of business ,buys or sells goods on behalf of Principal

b) auctioneer who sells/auctions goods or organises sale/auction.

c) non resident dealer /agent buys/sells goods in course of business on behalf of Principal

d) society/club/association buys/sells goods from/to members.

DEEMED to be dealers--

- Customs dept.,
- Dept of State or Central govt.,
- Local authority,
- Port trust ,
- Railway administration,
- Charitable trust
- Societies , clubs, association of persons etc-- ocassionally sell goods ie. Unclaimed goods, scrap waste etc.

Exceptions—Following are not Dealers--

a) Agriculturist who sells exclusively agricultural produce

b) Educational institution--carrying on activity of manufacturing/ purchasing/selling goods in performance of its objects

c) Transporter holding permit for transport vehicles.

But Railway/shipping /air transport though transporters are considered as Dealers

Section 2(13) IMPORTER-- a dealer who **brings or purchases** any goods in Maharashtra from outside Maharashtra or to whom goods are despatched from any place outside Maharashtra—inter state purchases subject to CST.

Section 2(15)Manufacturer—A person who produces or alters or brings into existence new substance. Manufacture involves change in raw material. Goods which are commercially different from original goods are produced.

- There should be some **process** on goods ,
- Carried on **by a dealer or other hired person, and**
- The process brings about **changes in substance** of the original goods.
- The changes must result in emergence of **commercially new and different article.**

GOODS

Every kind of movable property, excluding newspapers, actionable claims, money, stocks, shares, securities and lottery tickets.

INCLUDES--live stock, growing crops grass and trees/plants and produce thereof attached to land but agreed to be severed /cut at the time of sale.

Sale of newspapers not sale of goods but sale of old newspaper sold as raddi is sale.

Goods includes intangibles--patents, trademarks, import licence, export permit/software package, technical knowhow, goodwill, copyright, designs, sim cards, franchisee.

SALE--Sale of goods made **within Maharashtra** for cash or on credit basis, for valuable consideration. Transfer of ownership in goods. But sale does **not include-- mortgage/hypothecation/charge/pledge of goods.**

Deemed sale—

- 1) Transfer of ownership in goods **otherwise than under a contract** ..
- 2) Transfer of ownership in **goods in execution of works contract**.
- 3) **Hire purchase/instalment sale**.
- 4) **Rental or lease of goods** .
- 5) Supply of goods **by association to members**.
- 6) Supply of **food, drinks or articles for human consumption**.

Excludes—**pledge/ Hypothecation of goods (no transfer of ownership), gift of goods(no consideration or value exchanged)**

Sale Price

Valuable consideration paid/payable, to dealer, for sale made.

Includes --a) any charge for anything done to the goods **before/at** the time of delivery of the goods.

b) **Central excise duties, customs duties** .

c) Deposit received by seller whether refundable or not. But **Deposit returnable within 6mths not included in saleprice**.

d) In case of hire purchase –sale price includes hirecharges and interest payable

e) In case of Lease –sale price includes charges for using (rent) the asset

Excludes –a) transit insurance or installation cost if such cost is separately charged.

b) MVAT payable to seller .

Section 2(33) Turnover of Sales—Aggregate of saleprice received or receivable by a dealer during a given period , in respect of sale of goods. Returns of sale price and refund of deposit should be deducted from turnover to find Net turnover of Sales.

Sec 3-Registration—Dealers who fulfil the following conditions are liable for registration ie they have to get themselves registered. When during the year on the day ,as soon as the conditions are fulfilled, the dealer should apply for registration. Once the dealer becomes liable for registration he should start charging MVAT on his sales, collecting MVAT from customers and paying it to the government.

A) Importer— A Dealer who purchases goods from outside Maharashtra is called as an Importer. Importer shall be liable for registration if--

1)His Sales Turnover exceeds Rs.100000 -- Sales Turnover includes taxable and non taxable sales ,local ie within Maharashtra sale, inter state sale and also export sales .

AND

2) Taxable sales **OR** taxable purchases are atleast Rs10000 --- Taxable sales include local+inter state +export sales+sales on behalf of principal also. But Taxable purchases include local purchases only (within Maharashtra purchases only) .

B) Other person— A Dealer who is not a Importer is called as Other Person. Other Person shall be liable for registration if--

1)His Sales Turnover exceeds Rs.500000 -- Sales Turnover includes taxable and non taxable sales ,local ie within Maharashtra sale, inter state sale and also export sales .

AND

2) Taxable sales **OR** taxable purchases are atleast Rs10000 --- Taxable sales include local+inter state +export sales + sales on behalf of principal also. But Taxable purchases include local purchases only (within Maharashtra purchas

Voluntary Regn-- If person not liable to pay tax , has voluntarily registered, he shall be liable to pay tax from the date of registration certificate . If person liable to pay tax is succeeded by any person in business, successor shall be liable to pay tax after transfer of business irrespective of his turnover limits.

Sec 4-Taxability

Every dealer who is liable to pay tax under the MVAT Act 2002, shall pay the tax in accordance with the provisions of this Act as under--

Section 5—Tax not Leviable on Certain Goods (Taxfree Goods)

Goods Specified in Schedule A are exempt from MVAT

Schedule A- Taxfree goods --51 items--Foodgrains, pulses, milk, bread, vegetables, books, agricultural tools, fruits, fish, eggs, meat etc

Section 6—Levy of Tax on Goods specified in the Schedules

Schedule A- Taxfree goods --51 items--Foodgrains, pulses, milk, vegetables, books, agricultural tools, fruits, fish, eggs, meat etc.

Schedule B- 1.1% - Gold, Silver, precious metals, stones and their **jewellery, articles**

Schedule C- 5% - Declared goods--raw material., used in manufacturing process, IT products, Capital goods --5% tax

Schedule D- 20% and above - Liquor, beverages, molasses, petroleum products. From 1.05.11 certain goods taxed at 50%.

Schedule E- 12.50% - Other goods.

Sec. 7--Tax on packing material-- same rate as goods packed.

Sec 8-- EXEMPTED / Zero rated -- Sales and Purchases not liable to tax

- 1) Sales or Purchases made **outside Maharashtra state.**
- 2) Sales or Purchases made in the course of **import/export outside the country**
- 3) Sales or Purchases made In the course of **interstate trade/commerce**
- 4) Sale of **fuel and lubricants** in aircraft registered outside India, provided the foreign country has entered into Air service agreement with India.
- 5) Sales by **SEZ developer, SEZ unit, EOU** (export oriented unit), unit in software **technology** park/ Electronic Hardware Tech Park.
- 6) Sales by Registered Dealer specified in **Foreign Trade Policy of Government of India.**
- 7) Sales by Registered Dealer to **Canteen Stores dept of Indian Navy**, by Canteen dept to unit run canteens, and by unit run canteens to members of armed forces/ exservicemen/ families of deceased

8) **Transfer** of property in processing of specified textiles. Textile processors are exempted from tax in respect of materials transferred under the works contract.

9) **Sales by unit holding certificate of entitlement** to whom incentives are granted under Package scheme of incentives.

10) Sales by Registered Dealer to-- State Government, Central Government, Electricity generating Company, MTNL, BSNL, Licenced Telephone service provider.

Sec16 Registration

Registration is mandatory or dealer cannot engage in business. He should atleast make an application.

Security deposit—Rs. **25000 conditional refund**. Such security deposit shall be forfeited if there is no compliance of the conditions prescribed under the Act.

Liable to pay tax during period Certificate of registration is effective.

Application for Registration.

- Application **should be made in Form 101, within 30 days** from date when sales/purchase during the year first exceeds relevant limit.
 - Single application from principal place of business, though dealer may have many places of business.
 - In case of succession of business, the successor of business should apply within 30 days after succeeding the business.
 - Application for registration should be compulsorily made electronically.
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Section 42 Composition of Tax

Simple schemes, simple procedures of tax for benefit of small dealers, retailers. Means payment of lumpsum amount of tax on the sale. State government by notification in the official gazette, provide an optional scheme for certain specified dealers. The following can opt for the scheme—

- a) **Notified Retailer**—prescribed retail businesses
- b) **Dealers**—if 90% of his sales are made to direct consumers who are not dealers,
- c) **Restaurant, hotel or caterer**—5% of turnover in case of registered dealer and 10% of turnover in case of unregistered dealer.
- d) **Baker**—4% of turnover in case of registered dealer and 6% of turnover in case of unregistered dealer for first Rs50 lakh turnover. For exceeding sale 12.50%.
- e) **Works contractor**—Scheme of composition of payment of tax at 5% of total contract value in case of construction contracts and at 8% of total contract value in case of other contracts,
- f) **Dealer of second hand motor vehicles.**

- g) **Mandap Keepers**—1 ½ % tax on leasing of mandap, fittings, utensils etc. by mandap keeper.
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Section 48 Setoff, Refund .

When paying MVAT on goods sold , the dealer can claim tax paid by him on his purchases as a deduction and pay only the net balance amount.

Only Registered Dealer can claim setoff on purchases from Registered Dealer .

Refund means excess tax paid to the govt is returned by the government,

Conditions—

- 1) Input credit is allowed only to a Registered Dealer
 - 2) The dealer can claim following taxes paid on his purchases as input credit—
Tax paid on **capital assets (fixed assets)**, Tax paid for **purchase of goods**, Tax paid as **Goods entry tax , Vehicle entry tax .**
 - 3) **BUT CST paid on purchases from outside Mah, VAT paid in other States or Octroi paid is not eligible for setoff.**
 - 4) Purchase of goods should be made **from Registered Dealer. Tax invoice --registration certificate** of selling dealer should be **in force on date of sale.**
 - 5) If tax is not seperately charged , then for setoff purpose --**rate against goods in Schedule should be considered.**
 - 6) **Sale exempted** from sales tax then rate of tax applicable will be **nil.**
 - 7) MVAT against tax invoice-- Claimant dealer should produce tax invoice-Registration certificate of selling dealer should be in force on the date of sale.
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