
NEWSLETTER FOR THE MONTH OF NOVEMBER 2012 (RELEASE DATE: NOV 28, 2012)

Important updates in MVAT and CST

1. Circular No 14T of 2012 dated Aug 6, 2012: **Regarding builders and developers:**

Writ petition no 2022 of 2007: In case of MCHI vs State of Maharashtra, Bombay HC upheld constitutional validity of amendment to Sec 2(24) of MVAT Act. Notification dated July 9, 2010 notifying composition for builders and developers was upheld. Promoters and Builders Association (PBA) filed SLP No 17738 before Supreme Court. SC admitted the petition but didn't grant stay to Bombay HC order. In effect, builders are liable to pay tax wef June 20, 2006.

Dealers shall have to obtain registration before Aug 16, 2012, pay tax for unregistered period, file returns for the periods starting from June 20, 2006, and apply for administrative relief. Detailed procedure and administrative aspects explained.

2. Circular No 15T of 2012 dated Aug 13, 2012: Extension of due date for uploading of VAT returns for the period ending June 30, 2012 is extended from July 31, 2012 to Aug 17, 2012.

3. Circular No 16T of 2012 dated September 25, 2012: **Regarding taxability of furnishing cloth:**

Noti No VAT 1512/ CR 91 (1)/ Taxation 1 dated Aug 27, 2012: Sale of furnishing cloth exempted at all stages except last stage of sale. Examples given to assist in deciding last stage sale.

Noti No VAT 1512/ CR 91 (2)/ Taxation 1 dated Aug 27, 2012: Dealers dealing in furnishing cloth shall not be entitled to opt for composition scheme provided for retailers so far as composition relates to turnover of sales of furnishing cloth.

Noti No VAT 1512/ CR 91 (3)/ Taxation 1 dated Aug 27, 2012: The State Govt had earlier issued Noti no VAT 1510/ CR-47A/ Taxation 1 dated Mar 17, 2010 and notified eight items of fabrics that are taxable under Sch entry no C-101 (a). Since these are not furnishing cloth, these eight items continue to remain vatable at each stage and set off as regular shall be allowed. Now, vide this Noti no VAT 1512/ CR 91 (3)/ Taxation 1 dated Aug 27, 2012, furnishing cloth has also been notified under Sch entry no C-101(a). However, on this furnishing cloth, tax shall be leviable on last stage only and it shall be effective from Sept 1, 2012.

Varieties of textile and textile articles notified (29 items notified) under Sch entry no C-101(b) vide Noti No VAT 1505/ CR-120/ Taxation 1 dt June 1, 2005 are not furnishing cloth and they continue to remain vatable as earlier.

The dealers dealing in furnishing cloth shall obtain registration accordingly. Applicability of turnover explained in the circular.

4. Circular No 17T of 2012 dated September 25, 2012: **Regarding builders and developers:**

Supreme court in the Special Leave Petition filed by Promoters and Builders Association and MCHI passed an interim order stating that developers who have not



obtained the registration may obtain the same by Oct 15, 2012 and file returns & pay taxes by Oct 31, 2012.

As per this circular, developers fulfilling above two conditions shall be eligible for administrative relief if relief application is made before Oct 31, 2012. The payment of tax as above shall be subject to final outcome of the aforesaid petition (which has not yet come).

5. Circular No 18T of 2012 dated September 26, 2012: **Regarding builders and developers:**

In Circular No 14T of 2012 dated August 6, 2012, it was mentioned that developers have to obtain registration, pay tax for unregistered period, apply for administrative relief and file returns for the periods starting from June 20, 2006.

Now, in this circular, it is further directed that developers should submit yearwise working of their tax liability for all periods ending upto Oct 30, 2012. Format available under download section of www.mahavat.gov.in. This will be in addition to the returns filed. This working is to be mailed at builderscell@gmail.com.

For the period from June 20, 2006 to March 31, 2010, there are following three options for discharging the liability:

1. **Composition Scheme U/s 42 (3)** - Under this scheme developer has to pay 5% tax on the agreement value. Land deduction is not available. Input tax credit is available subject to the reduction of 4 per cent.
2. **Actual Expense Method U/r 58**- Under rule 58, the deduction of Labour & service charges is available on actual basis. Land deduction is also available. Set-off will be calculated subject to the conditions u/r 53 and 54.
3. **Standard Deduction Method U/r 58**- Under rule 58, the deduction of land cost will be allowed. Thereafter, 30% standard deduction from remaining amount will be available as per proviso to sub-rule 1. Set-off will be calculated subject to the conditions u/r 53 and 54.

After March 31, 2010, developer shall have fourth option of paying 1% composition (without deduction of land and input set off).

No other method, such as cost plus profit etc, shall be allowed.

6. Circular No 19T of 2012 dated November 9, 2012: **If due date falls on Sunday or Public holiday**, then acts such as making payment of taxes, filing of returns, Form 501, Form 704 etc done on next day shall be considered to be within time. Interest or penalty shall not be levied.
7. Circular No 20T of 2012 dated November 19, 2012: This is procedural circular regarding submission of mandate form in case of refund through ECS.



8. Noti No VAT 1512/ CR 84/ Taxation 1 dt July 30, 2012: MVAT (Fourth Amendment) Rules, 2012 shall be effective from Aug 1, 2012. To give effect to addition of "Late Fee" with tax, interest and penalty etc, amendments in various rules is done.

In Rule 55A, exporter is one who exports not less than 25% (from earlier 50%) of his total turnover of sales.

In Rule 58, proviso to sub rule 1A (deduction towards cost of land under this sub-rule shall not exceed 70% of the agreement value) is deleted.

9. Noti No VAT 1512/ CR 139/ Taxation 1 dt Nov 21, 2012: Due date of submission of audit report extended from Nov 30 to Jan 15.

Service tax:

1. Cir No 157/8/2012-ST dt Apr 27, 2012: Service tax **not** applicable on "Market Fees" collected by APMC. Details explained in the circular.

2. Cir No 165/16/2012-ST dt Nov 20, 2012:

Single accounting code (00441089) under negative list approach was prescribed vide circular no 161/12/2012 dt July 6, 2012. However, vide this circular, service specific accounting codes restored. List of 120 codes given as annexure to this circular.

Also, registrations should be obtained service specific as earlier. Registrations obtained under positive list approach – "All Taxable Services" shall be valid, they shall apply online in ACES for amendment.

3. Vide CBEC order no 3/ 2012 dt Oct 15, 2012, due date of filing of service tax return for the period Apr 1, 2012 to June 30, 2012 is extended upto Nov 25, 2012. No news till date (Nov 27, 2012) regarding service tax return for the period July 1, 2012 to Sept 30, 2012.

Disclaimer:

All efforts have been made to ensure completeness of data. However, readers are advised to confirm from their own sources also. Further, interpretations given above are our personal opinions at M/s Umesh Agrawal and Associates. We are not responsible for any loss arising due to the above information.

