

:: GVAT in brief by ROHAN DESAI + HEMANT DESAI – Advocates - VAT – SURAT::

S. 1(3) ‘Appointed day’ means - **01.04.2006**.

S. 2 Important Definitions:

S. 2(5)	Capital Goods	P/M (not second hand) meant for use in manufacture of taxable goods & accounted as capital asset in books.
S.2 (10)	Dealer {Includes Deemed Dealer}	Exhaustive definition – it includes casual dealer – auctioneer – factor broker – commission agent – del credere agent - mercantile agent – execution of works contract – transfer of right to use goods – delivery by hire purchase – supplies & services of food for human consumption – society, club, firm or AOP supplies or distribute goods between members - Rly. Administration – Port Trust – Body, which disposes of unclaimed, confiscated, unserviceable, scrap, surplus, old, obsolete, discarded waste goods. {Explanation clause under Act, 1969 remains same}.
S.2 (13)	Goods	Movable property – goods involved in works contract – all intangible commodities.
S.2 (13) A	HSN Code	Harmonized System of Nomenclature code assigned to goods specified in schedule.
S.2 (19)	Raw Materials	Goods used as ingredient in manufacture of other goods – includes processing materials, consumable stores – materials used as packing of the goods mfg. – But does not include FULES when used as generation of electricity.
S.2 (23)	Sale	WCT – TRU- Barter of goods – Disposal of Goods vide Exp.(iii) to Cl.10.
S.2 (28)	Tax period	Calendar Month or Quarter.
S.2 (30)	Taxable Turnover	Exclude - sales not subject to tax – exempt u/s 5(1) – Notification u/s 5(2) – labour; services; like charges when paid for works contractor manner prescribed in Rule 18AA.
S.2 (34)	Total Turnover	Aggregate of S/P within State Taxable or Exempt – T.O. of inter State trade & export – on principal of behalf.
S.2 (35)	Value of Goods	Includes insurance, excise, duty, VAT, transport & freight charges, other charge incidental to goods. Proviso when bill not produced price as per market.

S.2 (36)	Year	Means financial year
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VAT payable on what?

VAT becomes payable on sales & purchases of '**taxable goods**'. Dealer defined in S. 2(10) when engaged in buys or sells, manufactures, distributes the Goods as defined in S. 2(13) means all kind of movable property which includes live stock, all kind of materials, articles, commodities & property involved in execution of works contract & intangible commodities. If the commodity is a Taxable goods as defined in S. 2(29) then subject matter becomes liable for VAT. Works contractors & revenue earns from Transfer of Right to Use goods is also becomes subject matter of VAT payable.

S. 2(5) Capital Goods:

- Plant & Machinery **meant** for manufacturing of **taxable goods** becomes entitled for ITC.
- Such Plant & Machinery must have been purchased **after 01.04.2006**.
- Such Plant & Machinery should **not** be **second hand**.
- Claimant must use it **continuously** for period of **5 years**.
- When not used **or** used for tax-free goods proportionate ITC will be disallowed.
- Plant & Machinery used in **transfer of property** involved in execution of works contract ITC not allowed.

S. 2(19) Raw Materials:

- Goods used as **ingredients** in mfg. of other goods, **processing materials**, **consumable stores**, materials used in **packing of goods** manufactured but excluding fuel when used in generation of electricity.

S. 3 Incidence of Tax:

Liability shall arise mainly on two circumstances:

- 1) 'Threshold of turnover' means Turnover of Purchases & Sales exceeded Rs. 5 lakhs & Taxable Turnover exceeded Rs, 10,000 during preceding year i.e. 2005-06; Total Turnover means aggregate of all Purchases & Sales within the State, i.e. local sales taxable sale or exempt + OGS sales+ Export sales+ Commission sale; {Excluding purchases Turnover of OGS & Import}; Taxable Turnover means excluding u/s 5(1), 5(1A) & (2), labour & services like charges.
- 2) Dealer Registered under the GST/CST/PT or in Sugarcane Acts on 01.04.2006.
 - Casual dealer or Auctioneer Taxable Turnover of sales exceeds Rs. 10,000
 - When GTO & TTO first exceed the threshold turnover limit + liabilities accrue in CST.
 - Once liable to pay tax shall continue to be liable until expiry of 1 year.
 - If the liability ceased u/s 3(4) or the registration obtained is cancelled & thereafter again GTO & TTO exceeds the threshold limit on any day with such year then dealer will become liable to VAT again.
 - By order so passed if for RD it is found latter that dealer ought not to have been registered, then such person shall be liable to pay tax from commencing with date till ending of such dealer.

S. 21/22/23/26 Registration & Amendment:

- **Compulsory** - on exceeding of threshold limit dealer shall apply **within 30 days** - S. 21.
- **Voluntary** – fixed or regular place of business - **deposit Rs. 25,000** - S. 22.
- **Deemed registered dealer** – RC holder of earlier Law or CST Act - S. 23.
- Change in Business place falling in **different jurisdiction New RC** to be obtained - S.21 (7A).
- Change in name–place–style–constitution–nature of business- temporarily close over 30 days- S. 26(1).
- Default **penalty** sum of **Rs. 100 per day** & maximum of Rs. 5,000 - S. 26(5).
- No fresh RC– if change in name – constitution – trustee – karta – director – management - S. 26(6).

R.5 / 6 / 12 Application for Registration & Grant of it:

- i) Application **Form 101** to be submitted from relevant date **within 30 days**.
- ii) **Additional place**= GUJ Form 101A – OGS Form 101B – Partners Form 101C.
- iii) Place of business are more than one, only single registration from chief place of business – R. 6(6).
- iv) For RC-**Security Rs. 50,000** =However Rs.10,000 subject to providing **3** documents: Elec. Bill; Tel bill; PAN card; Business or Residence proof; Notarised photo; SMC Licence; Excise Licence. R. 12(1).
- v) Permanent residential **address proof** to be furnished of – IND – PARTNERS – HUF – AOP –R. 5(7).
- vi) **Passport size** photographs **2** copy of – IND - PARTNERS – HUF Karta – DIRECTORS {not GOI/GOG}.
- vii) **Property details** to be informed of –IND-PARTNERS– TRUSTEES–KARTA-DIRECTORS {not GOI/GOG}.
- viii) Premises when shared then stock inventory to be reasonably identifiable – Rule 6(1).
- ix) For obtaining duplicate RC fee is **Rs. 100** - Rule 6(8).
- x) Additional security to be submitted in Form 105 – Rule 12(2)(i).
- xi) Manager business information **Form 106** – **change** to be intimated **within 30 days**.
- xii) Bank account revised information to be submitted in **Form 107**.

R. 8 Amendment in the Registration Certificate:

- Any kind of change to be informed in writing **within 30 days**– Rule 8(1)(c).
- Joining Partner **or** Director shall provide 2 passport size photos & intimate **within 30 days**.

S. 27 Cancellation of RC: >>> Rule 10 <<<

- S. 27 (1) - If business is discontinued – incorporated body wound up - cease to exist - death of proprietor & no successor - Firm or AOP dissolved - ceased to liable to pay tax - change in business place of different authority - **Form 103** – **within 30 days**. R. 10 (1).

- CCT for **sue moto** cancellation issue notice in **Form 104** - if change not intimated in name-place-style-constitution - nature of business – premises close for more than 30 days. - R.10 (3).

Sub clause 5 of Section 27 Cancellation of RC:

- Failed to **file 3 consecutive returns** within time prescribed – S. 27(5)(a).
- Knowingly furnished **incorrect** or **incomplete** returns **with a view to evade tax** –S. 27(5)(b).
- Failed to **pay** due amount of **tax** for **3 consecutive periods** – 27(5)(c).
- Failed to **account** in books of accounts the Retail Invoice or Tax Invoice - S. 27(5)(d).
- Knows or reason to believe-declaration is **false** Holds/accepts/furnishes – S. 27(5)(e).
- Dealer if **convicted** of an offence under VAT Law or GST Act – S.27 (5)(g).
- **Discontinues business** & failed to furnish information – S.27 (5)(ee).
- **Without entering** into transactions issues Tax Invoice or Retail Invoice – S. 27(5)(i).
- **Found evading tax** - reason of variation - physical stock compared books – S. 27(5)(j).
- **Otherwise than** application for cancellation of RC it will be surrender within 7 days – S. 27(8).
- For above default after opportunity of hearing - **penalty** may be of **Rs. 100 per day** – S.27 (9).

S. 27(6) - Cancellation of RC for above, as regards the taxable goods held in stock on such date, dealer would pay tax as if the goods were sold at fair market price/tax credit previously claimed on such goods, which ever is higher.

- In case of lost – destruction – defacement of RC within 7 days communication to CTO – S.27 (8).

Sub clause 5A (1) of Section 27 Suspension of RC:

- Failed to **inform** name change–place–style–constitution-nature of business–premises close > 30 days.

- Failed to furnish **return** u/s 29 or pay tax u/s 30.
- Failed to file or intimate the change in **Bank A/C** or name of **Manager** of business.
- Failed to produce books of accounts during **search** u/s 67.
- RC suspension or cancellation to be published **within 10 days of it** – Rule 11(3).

After being heard & recording the reason in written CCT suspend RC – hence not entitled for ITC – but upon compliance suspension be withdrawn.

S. 28 Security: >>> Rule 12 <<< Bond in Form 105 – BK Guarantee – NSC - Cash deposit.

- For issue of RC - CTO for proper realization of tax, interest & penalty may ask security- S.28 (1).
- Where tax becomes due for any period additional security may be asked –S.28 (2).
- Such security can be demanded only to the extent of tax, interest & penalty payable.
- Before asking for security or additional security opportunity shall be provided – S. 28(3).
- Dealer becomes insolvent or dies shall intimate **within 30 days** - S.28 (5).
- Aforesaid reason supra dealer shall provide fresh security **within 90 days** – S. 28(5).

S. 66 & 66A Bank Account information & Specimen Signature: >>> R.14 <<<

- Dealer shall furnish their business related all **BANK ACCOUNTS** declaration **within 30 days** – R. 14(2).
- Dealer shall furnish **SPECIMEN SIGN** of Authorized Persons who sign invoice **within 30 days** – R. 14(2).
- Dealer shall furnish **Capacity & Production details** in Form 101E **within 90 days** – R. 14(2).
- Dealer shall furnish declaration for **COMMODITY** dealt in or Manufacturing **within 30 days** – R. 14(4).
- **Occurrence of change** in above, revised declaration shall be furnished **within 15 days** – R. 14(3).

<p>PENALTY: Not providing Bank Account information Rs. 10,000 – S. 66(2). Not providing Specimen Signature such amount of Tax Payable - S.66A (3).</p>

S. 60 Invoices: >>> Rule 42 <<<

- **TAX INVOICE** in **DUPLICATE** is mandatory for sell of Taxable Goods between R.D. to R.D.
- Invoice shall bear mark of 'Original' & 'Duplicate' - **pre printed phrase** 'TAX INVOICE'.
- **Consecutive serial** number for TAX INVOICE & its BOOK thereof – if in Excise immunity.
- It shall bear sale date; name; address & TIN/CST RC of buyer and seller.
- It shall bear sale price; VAT separately; goods description; HSN; quantity; price; tax rate & Gross value.
- TAX INVOICE is **NOT NECESSARY** for sales of Sch. 1, u/s 5(1) or Exempt Goods u/s 5(2); who opt for lump sum tax; for sale in inter State trade & commerce & Export of goods and person who is URD.
- 'TAX INVOICE' shall bear **signature of authorised person**.

- **RETAIL INVOICE** in **DUPLICATE** is mandatory for sells of any goods above Rs. 100 to other than R.D.
- Invoice shall bear mark of 'Original' & 'Duplicate' **pre printed phrase** 'RETAIL INVOICE'.
- **Consecutive serial** number for RETAIL INVOICE & its BOOK thereof – if in Excise immunity.
- It shall bear sale date; name; address & TIN of seller.
- It's mandatory for goods description; quantity; price; tax rate: Gross value & not VAT separately.
- RETAIL INVOICE is **NECESSARY** for sales of Sch. 1, u/s 5(1) or Exempt Goods u/s 5(2); who opt for lump sum tax; for sale in inter State trade & commerce & Export of goods and person who is URD.
- Permission granted for LUMP SUM shall **issue Retail Invoice** – **shall NOT charge & collect VAT**.
- 'RETAIL INVOICE' shall bear **signature of any person**.

For contravention of the above term & provision CCT may impose penalty @10% of such T.O.

Consignment transactions dealer shall issue Retail Invoice.

Transfer of goods by stock transfer note / consignment note all conditions stated above shall apply.

Delivery challan raise in respect of sale – transfer – consignment – provision stated above shall apply.

In case of differ of signature CCT will provide opportunity to get signature authenticated – R. 42(8).
Duplicate TAX INVOICE - indemnity bond & invoice shall bears language “*copy in lieu of lost invoice*” -
“I hereby declare that this is the duplicate of the Tax Invoice bearing no: - DT; issued to – M/S – bearing TIN”

S. 61 Credit & Debit notes: >>> Rule 43 <<<

- C/N & D/N is mechanically printed consecutive number; bear date of issue; name/address; TIN of both; relevant Invoice reference serial number / date; value of goods & amount of tax credit / debit; signature by authorized person - have to raise in **TRIPLICATE**, should bears **Original–Duplicate-Triplicate** R.43 (1)
- **Original** to be issued to purchaser – **Duplicate** to be attaché with VAT return – **Triplicate** to be retained.
- C/N for Sale is **cancelled, No Limit - Returns** of Goods from sale date time limit is **6 Months**–R. 43(2) (b).
- C/N for consideration is previously **agreed by Agreement** from sale date time limit is **1 year**–R. 43(2)(a).
- C/N for **Annual Discount** from end of the year **3 months** – R. 43(3) (a).
- For the concerned transaction C/N or D/N can be issued only **ONCE** – S. 61.
- C/N & D/N is to be claimed in **Tax Period** of its event occurred.

S. 4 Certain Sales and Purchases not liable to VAT:

- Transactions under the inter State trade & commerce or outside the State
- Transactions under the Import / Export of goods out of territory of India.

S. 5 Exemptions:

- Goods specified in Sch. I shall be exempt subject to condition set out therein.
- In public interest GOG, issue GNFD & relax or omit the conditions or exception specified - S. 5(1A).

- In public interest GOG, issue GNFD, exempt goods partly / wholly- S.5 (2) (a).
- To continue tax exemption scheme under earlier law GOG may issue GNFD – S. 5(2) (b).

S.5A Zero Rated Sales – can be made to SEZ Units from 01.04.2008

S. 7 Levy of Tax:

- Tax shall be levied on goods specified in Schedule II or III at the rate set out therein – **A. Tax 1/4/08**
- By notification GOG can omit or otherwise amend or modify Schedule Entry or part thereof.

S. 9 Levy of Purchase Tax:

- If the purchase is made from URD.
- Sugarcane purchase from URD - use thereof in mfg. of sugar/ khandsari.
- Upon recital of terms or condition of certificate in VAT or earlier Law.
- Commission Agent to whom permission to pay lump sum granted when do not resold within State.

S. 11 Input Tax credit: >>> Rule 15 <<<

Salient feature of VAT, ITC of tax paid on purchase is to be given against the tax liability incurred on the sale. Briefly the effective tax shall be leviable on value addition at every stage of sale transaction. Sec. 11 specifies the circumstances, the conditions & extent to which the ITC shall be available.

- a) Tax collected by R.D. who sold goods to him during Tax Period; **or**
- b) Tax payable by him to R.D. who sold to him during Tax Period;
- c) Payable Purchase Tax if shown in VAT return for a Tax Period; {(GHN-18)VAR-2007(10)TH.22.5.06}
- d) Payable Entry Tax if shown in VAT return for a Tax Period. {(GHN-18)VAR-2007(10)TH.22.5.06}

Conditions:

ITC is allowable to a purchasing R.D. on his purchase of taxable goods intended for the purpose of;

- i) Sale **or** Resale by him within the State;
- ii) Inter State trade & commerce;
- iii) Branch Transfer **or** Consignment to other State;
- iv) Export sale out of India;
- v) Sale made to EOU **or** SEZ;
- vi) Use as **R/M** in the manufacture of taxable goods intended for all the above purpose;
- vii) Use of **packing** of the taxable goods so manufactured.
- viii) Use as **Capital goods** (new) meant for use in manufacture of taxable goods (conditions apply).
- ix) **Fuel** used for the manufacturing of goods – *restricted to excess of 4%*.

- Purchasing R.D. *partially use* the goods, the ITC shall be pro-rata. - Proviso to S.11 (3) (a).
- R.D. shall apply fair / reasonable method - determines ITC – maintain register / accounts-S. 11(11).
- ITC can be claimed provided R.D. must *posses* TAX INVOICE.

>>> No ITC if the purchases are made from/of<<<

- **Fictitious** dealer.
- Who is **not liable to pay tax** under VAT Act?
- Who has been permitted to pay **lump sum tax** in lieu of VAT?
- **Prior to the relevant date** of liability to pay VAT- *from 1/4/08 it is permissible purchase during one year.*
- In the course of **inter State trade or commerce**.
- Goods **disposed of otherwise** than in sale, resale or manufacture.
- Used in mfg. of goods specified in the **Schedule I** or GNFD vide **S. 5(2)**.

- **Capital goods** used in mfg. of goods specified in **Sch. I** or goods exempted vide **S.5 (2)** or **Elec. energy**.
- **Vehicles of any type** - its equipment, accessories, parts, fuel used – *except engaged in same business*.
- **Fuel used** in generation of elec. energy meant for captive use.
- **Use of Petrol, High Speed Diesel, Crude Oil & Lignite** - *unless intended for resale*.
- **Unsold stock** of goods at the time of closure of business.
- **Original invoice** or Duplicate thereof duly authenticated is not produced.
- Original invoice does **not reflect Tax** charged separately.
- Goods **Return** or **Rejected** claims.
- For B.T./Consignment OGS **4%** on purchase turnover or applicable rate of tax will be reduced.
- Goods, which is **notified in Official Gazette** by GOG & not connected with business.
- Capital goods used in Execution of **Works Contract**.
- Goods used for which **Right to Use** is transferred.
- Dealers whose **name published - cancellation of RC** by CCT vide section 29 (11).
- Dealer whose **name published by CCT** vide section 97.
- Goods purchased during the **permission of consideration of composition**.

>>> GOG notifies any goods not entitled to whole or partial tax credit- S. 11(6).

>>> ITC can be denied, where no real transaction took place – S. 11(7).

>>> Availed ITC shall be reversed in case of goods used in other purpose – S.11 (8).

>>> Capital goods not used continuously for 5 yrs., ITC shall be proportionately reduced –S.11 (8) (b).

R. 15 Tax Credit condition:

- **Maintain** Register – name – place – TIN - Inv. no. – Date – description – HSN – quantity – value -TAX.
- ITC can be claimed in Tax Period in which Tax invoice is **recorded** – R.15 (2).
- Dealer shall calculate ITC as per Form 201 for each Tax Period – excluding ITC, S. 11(5) R.15 (3)
- URD purchase ITC can be claimed in Tax Period in which tax is paid - R. 15(5).

- If the ITC found excess it shall be refundable not later than expiry of **2 years** – R. 15(6). {Other Cap.}
- Export, ITC shall be refundable in **3 months** from month of Purchase – R.15 (7).
- Refund shall be admissible subject to furnish of copies of Tax Invoices - R.15 (8).
- CTO satisfied, such transaction reflects in return & accounted in books – proviso.

S. 12 Tax Credit of goods held in stock on 31.03.2006: >>> See Rule 16 <<<

- **Only R.D. is entitled** for TC of ST+ PT+ ET paid on purchase of taxable goods held in stock.
- Permissible TC stock statement to be furnished in **Form 108** to CTO **before 31.5.2006**. – R.16 (2).
- No excuse or liberty to **revise** the stock statement if such changes result in increasing of ITC.–S. 12(2).
- Claimant of TC must **possess bills or invoices** issued by selling dealer – R.16 (3) (b).
- Particulars of closing stock must **reflect in books of accounts** – R. 16 (3) (c).
- Dealer shall prove that **tax return** under the earlier Law have been **filed** – R. 16 (3) (d).
- Dealer shall prove that **tax** have been **paid** at earlier stage - ST or PT. – S. 12(3) (a).
- Claimant of TC should have **intention to use** the goods for purpose specified in **S. 11(3)** – S. 12(3) (b).
- If invoices is **inclusive of tax**, formula $9 P/10$ multiplied $R/100+R$ shall apply for such credit. R.16(4)
- P.T. paid **u/s 15A** under earlier Law entitled for TC - holds recognition - tax challan - Form 19.
- CCT be satisfied that goods are **intended for** Taxable Sale / BT / Export.
- TC shall be claimed in return-Tax Period **APRIL to JUNE 2006** in **SIX equal** instalments - R. 12(6).

No Tax Credit:

- i) Goods, which are not taxable under GVAT or earlier law.
- ii) If goods found do not included in stock statement filed in Form 108.
- iii) R.D. does not have possession of Purchase Invoice.
- iv) Goods, which are not recorded in Books of Accounts.
- v) CCT if not satisfied for claiming of TC is not entitled or has claimed in excess.

vi) All the conditions of section 11 shall apply for availing TC.

PENALTY: Claimed ITC for not entitled goods or excess - penalty TWICE the ITC claimed.

S. 14 Lump sum scheme: >>> Rule 28 <<<

- Only Traders & Specified Manufacturer can opt, whose **GTO** should not have exceeded Rs. 50 lakh.
- Such dealer shall pay lump sum amount only on **TAXABLE TURNOVER** until they reach the above limit.
- Application in **Form 210** be furnish to CTO **within 15 days** from **effect date of RC** – R. 28(4).
- If discrepancy, CTO shall communicate within 15 working days - Permission be granted in **Form 211**.
- For the year 2006-07 such application shall be made **before 31st May 2006** – R. 28(2) (i).
- Any subsequent year it shall be made **before 30th April** – New Dealer commences latter, **within 30 days**.
- For the year 2007-08 such application shall be made **before 31st June 2007** – R. 28(2) (ii) - proviso.
- Dealer who intends to change the option shall apply **beginning a month** starts from 1st July-Oct-Jan.
- When contravenes the provisions of GVAT permission shall be cancelled **from date of event** – R.28 (6).

Restrictions:

- i) Not entitled for ITC in respect of VAT paid on purchases.
- ii) Not entitled for sells & purchases of goods in OGS; EXPORT & IMPORT.
- iii) Not entitled for dispatch or receive of goods to & from BT & Consignment.
- iv) Not entitled for manufacturer other than specified by GOG > BAKERY; BRICKS; HOTEL.
- v) Not entitled for sale the goods through Commission Agent.
- vi) Not entitled for Deemed Sales in execution of Works Contract / TRU Goods.
- vii) Dealer shall **not charge tax** under the sales bill.
- viii) Dealer shall **not issue TAX INVOICE**.
- ix) Movement GTO exceeds Rs. 50 lakhs dealer shall start paying Tax from such Tax Period.

Liability under lump sum:

@ **0.50%** vide GNFD (GHN-20) VAT – 2006/ S.14 (2) (1)-TH 31.03.2006

@ **2%** for **BAKERY & BRICKS** Manufacturer vide (GHN-24) VAT-2006/S.14 (1&2) (1) TH DT: 31.03.2006

@ **4%** for **HOTEL & RESTURANT** Manufacturer vide (GHN-24) VAT-2006/S.14 (1&2) (1) TH DT: 31.03.2006

Dealer shall **pay Purchase Tax** u/s 9(1)/ (3) in addition to lump sum.

N.B. ITC shall be available for stock held when T.O. exceeds for purchase made from 1/4/08.

S. 14 A Composition of Tax on WORKS CONTRACT: >>> Rule 28 (8) <<<

- Only Indivisible Work Contractor can opt, **GTO** limit is unrestricted.
- Such dealer shall pay composition amount **on entire amount** until they withdraw from scheme.
- Composition amount shall become payable after deducting **amount paid to sub contractor**.
- Amount shall become payable on milestone payment schedule # date of bill or amount received.
- For **Specific contract** application in **Form 214** furnish to CTO **within 30 days** from LOI – R. 28(8) (b) (iii).
- If discrepancy, CTO shall communicate within 15 working days - Permission be granted in **Form 215**.
- Permission be granted under above scheme from beginning date till its conclusion - R. 28(8) (b) (i-a).
- For **Ongoing contract** application in **Form 214A** be filed to CTO **before 30-11-2006** – R. 28(8) (b) (iii-a).
- If discrepancy, CTO shall communicate within 15 working days - Permission be granted in **Form 215A**.
- For 2006-07 permission shall be made effective from receipt date of such application – R. 28(8) (bb) (ii).
- Any subsequent year application shall be made **within 30 days before commencement of the year**.
- Once permission is granted shall not file fresh application – earlier permission shall continue - **proviso**.
- For newly registered dealer during the year application shall be made **within 90 days** - R. 28(8) (bb) (iii).
- Contractor has been desired to file statement in Form 216 – R. 28(8) (f) (ii).

Liability accrues as normal dealer upon contravention of term from date of event - R.28 (8) (g).

Restrictions:

- a) Not entitled for ITC in respect of VAT paid on purchases.
- b) Not entitled for sells & purchases of goods in OGS; EXPORT & IMPORT – w.e.f. **11.10.2006**.
- c) Not entitled for dispatch or receive of goods to & from BT & Consignment – w.e.f. **11.10.2006**.
- d) Not entitled for Retail invoice purchases for use in execution of works contract.
- e) Not entitled for sale the goods through Commission Agent.
- f) Dealer shall **not charge tax** under the deemed sales invoices.
- g) Dealer shall **not issue TAX INVOICE**.

Liability under Composition:

@ **2%** vide GNFD (GHN-20) VAT–2006 S.14 (2) (1)-TH-DT: 31.03.2006.

For **selected contracts** rate is **0.60%** - Shall **pay P. Tax** u/s 9(1)/ (3) in addition to Composition amount.

S. 14 C Composition of Tax on Turnover of RIGHT TO USE GOODS: >>> Rule 28 B <<<

- Only RD who transfers their right to use any goods for any purpose can opt, **GTO** limit is unrestricted.
- Such dealer shall pay composition amount **on entire amount** until they withdraw from scheme.
- Option for composition is related to particular Financial Year only.
- Application in **Form 210B** be furnish to CTO concern during Financial Year **at any time**– R. 28 B (2).
- CTO shall grant the permission in **Form 211B** – R.28 B (3).
- Permission granted from tax period **subsequent to the month** which Form 210B submitted - R. 28 B (4).
- To get effect beginning date of subsequent year application shall be made **before commencement year**.
- Newly RD can make application at any time but permission shall be made effective from next month.
- Liability accrues as normal dealer upon contravention of term from date of event - R.28 B (6).
- To withdraw from scheme dealer shall intimate to CTO & from succeeding month shall become normal.

Restrictions:

- a) Not entitled for ITC in respect of VAT paid on purchases.
- b) Dealer shall **not charge tax** under the sales invoices.
- c) Dealer shall **not issue TAX INVOICE**.

Liability under Composition:

@ 4% vide GNFD (GHN-63) VAT-2006 S.14C (1) (3)-TH-DT: 17.05.2006.
Dealer shall **pay P. Tax** u/s 9(1)/ (3)/ (4) in addition to Composition amount.

S. 14 D Composition of Tax on sales of eatable by HOTEL, RESTURANT: >>> Rule 28 C <<<

- Only RD engaged in sale of eatables in any form including beverages can opt, **GTO** limit is unrestricted.
- Exp. provides term 'eatable' means mineral water, ice-cream, sweets & other goods specify by GOG.
- Such dealer shall pay composition amount **on entire amount** until they withdraw from scheme.
- Application in **Form 210C** be furnish to CTO concern – R. 28 C (1).
- For the year 2006-07 such application be filed **before 30th September 2006** – R. 28C(2)(a)(i)
- Year 2006-07 application be furnish upon exceeds T.O. >Rs. 50 lakhs within 30 days–R. 28C (2) (b).
- Subsequent year application shall be made **within 30 days before commencement of the year**.
- Once permission is granted shall not file fresh application – earlier permission shall continue - **proviso**.
- For newly registered dealer such application shall be made **within 90 days** from effect dt. - R. 28C (2) (d).
- CTO shall grant the permission in **Form 211C** – permission shall be for Financial Year - R.28 C (4)/ (3).
- Permission granted u/r 28 C (2) be effective beginning of the year and rest from date of application.
- Liability accrues as normal dealer upon contravention of term from date of event - R.28 C (7).
- To withdraw from scheme dealer shall intimate to CTO & from succeeding month shall become normal.
- Such dealer shall have to display conspicuously '**TAX IS NOT CHARGED SEPERATELY**'- R.28 C (11).

Restrictions:

- a) Not entitled for ITC in respect of VAT paid on purchases.
- b) Not entitled for purchases of Raw materials/Eatables goods in OGS & IMPORT- w.e.f.19.05.2006.
- c) Not entitled for dispatch or receive of goods to & from BT & Consignment - w.e.f.19.05.2006.
- d) Dealer shall **not charge tax** under the sales invoices.
- e) Dealer shall **not issue TAX INVOICE**.

Liability under Composition:

@ 4% vide GNFD (GHN-89) VAT-2006 S.14D (1) (2)-TH-DT: 17.08.2006.
Dealer shall **pay P. Tax** u/s 9(1)/ (3) in addition to Composition amount.

S. 29 RETURNS: >>> Rule 19-20-22-23-25 <<<

S. 29(1) provides that every registered dealer shall furnish correct & complete return.

S. 29(2) provides that CCT may exempt dealer from furnishing of return.

Cl. (a) CCT can permit dealer to furnish return for such different period.

Cl. (b) CCT can permit dealer to file separate return for such different place.

S.29 (3) for **likely to exceed threshold limit** by serving notice CCT can ask return.

S.29 (4) **Revised return** for (1)/ (3)-mistake, error, omission or incorrect statement – **within 30 days**.

S.29 (5) fails to file return of Cl. (1)/ (3) then **penalty Rs. 100**.

- **Monthly return** (except S.14-14-B-C-D) be filed in **Form 201** from respective month end **within 30 days**.
- **Sales information** shall be furnished in **Form 201A** together with return. {Tax <Rs. 60,000 Q - Return}
- **Purchase information** shall be furnished in **Form 201B** together with return.
- **Quarterly Inventory** shall be furnished in **Form 201C** - for dealer T.O. < Rs. 1 Corer top **10 commodity**.
- Sales & Purchase information provided in Form 201A/B be uploaded on **web site** of the department.

- **Incentive tax exemption** dealer shall furnish Monthly Return in **Form 203** – Annual Return in same Form.
- **Deferment tax** dealer shall furnish Monthly Return in **Form 204** – Annual Return in same Form.
- **S.14-14A-B-C-D** dealer shall file **Q - Return** in **Form 202** from respective Quarter end **within 30 days**.
- Above all dealers shall file **Annual Return** in **Form 202** from respective year-end **within 90 days**.
- **Every dealer** except lump sum, **Annual Return** be filed from year end in **Form 205 within 3 months**.
- Every dealer filling Form 205 shall also file **Form 205A**– capacity / production information details.
- Every dealer filling Annual Return as self-assessment shall also have to file **Form 101E**.
- T.O.>One Crore, Annual Return, **P/L, B/S** shall be furnished on website; *Audit report* **within 6 months**.
- Filing of **separate return** application shall have to be made in **Form 206**.
- Permission granted for above shall file consolidated Annual Return to main CTO.
- Return shall be accompanied by challan in **Form 207**.
- No taxable S/P, exemption application in filling of return shall be made in **Form 209**.
- Exemption granted shall be remain of **1** year & may be **renewed** Year-to-Year.
- If makes taxable sales, dealer will inform to CTO within 30 days & start filling return.

S. 30 Payment of Tax: >>> Rule 26 <<<

- Every R.D. shall pay Tax into Government Treasury in **Form 207** - S.30 (2).
- Monthly dealer from **Month end** & Quarterly dealer from **Quarter end** **within 22 days** - R.26 (1)/ (2).
- Revised return, higher amount shall be deposited with Interest – copy with it - S.30 (3).
- Recovery shall forthwith upon default of payment - S.30 (4).
- Liability to pay **Interest** is stipulated **@18%** per annum (No immunity) - S.30 (5).
- For **default** the amount paid shall be appropriated first towards interest, penalty - S.30 (6).

S. 31 COLLECTION OF TAX:

- Other than **R.D.**, No other dealer can collect the VAT.
- Dealer permitted to pay Lump sum or Composition amount **cannot** collect VAT.
- Dealer when held not liable to pay VAT shall **not** be entitled to Refund – such tax stands as forfeited.

PENALTY: For contravention in addition to tax penalty shall be leviable Equal to the Tax collected.

S. 32 Return Scrutiny & Provisional Assessment: >>> Rule 29 <<<

- S.32 (1) Returns or Revised return filed are subject to scrutiny by CCT.
- S.32 (2)(a)(i) If net amount of tax payable is NIL; or
- S.32 (2)(a)(ii) If ITC is carry forward for subsequent return; or
- S.32 (2)(iii) if refund is claimed; or
- S.32 (2) (iv) higher amount of ITC is claimed than admissible, and then CCT can provisionally assess.

>>> CCT before provisionally assess seek written explanation by serving notice in **Form 301**.

- S.32 (2)(b) if failed to reply CCT shall determine the tax liability.
- S.32 (3) if no return filed CCT shall proceed for provisional assessment based on past record.
- S.32 (4) In tax evasion/more credit claimed by notice CCT can provisionally assess.

S. 33 Self-assessment: >>> Rule 30 <<<

- S.33 (1) Furnish Annual Return by way of self-assessment *accompanied documents*.
- S.33 (2) ITC / Exemption **documents not accompanied** incl. CST, self-disallowed.
- S.33 (3) CCT satisfied that annual return filed is correct & complete self-assessment.
- S.33 (3) CCT by Sue Moto within **3** years can call for audit assessment.

S. 34 Audit assessment: >>> Rule 31 <<< Notice Form 302

- CCT not satisfied with bona-fide of ITC, exemption, refund, deduction, concession, rebate, **or** genuineness of declaration or evidence furnished in support thereof with self-assessment; **or** has reason to believe that detailed scrutiny of the case is necessary, then even if dealer is self assessed notice shall be served to appear before CCT.
- GOG may specify the class of dealers by rules.
- If found dealer is not functioning business; such premises does not exists - best judgment assessment.
- If prevented from conducting proceeding, best judgment, shall impose penalty equal to tax so assessed.
- If no return furnished; furnished is incomplete or incorrect; failed to comply the notice, best judgment.

- To evade or avoid payment of tax, do not file return; file it incomplete or incorrect; not entitled for ITC; employed method unable to assess or knowingly furnish false or incorrect self assessment, then by serving notice direct him to pay the tax by way of **penalty equal to 150% of the amount of tax.**
- Limitation to assess for all above cause shall be of 4 years from end of the year.
- Failed to get registered shall direct the dealer to pay tax by way of **penalty, in addition to tax assessed sum equal to the tax assessed or Rs. 5,000** whichever is more. To assess limitation apply of 8 years.

For all above Fresh Order upon Court order- Limitation is of 2 years excluding Stay period.

- When Tax paid with return & assessed exceeds **25% then penalty 150%.**

AUDIT ASSESSMENT CRITERIA:

- Notice will be served in Form 302 & Order shall be in Form 304.
- Annual **Turnover** exceeds of **Rs. 10 Crores.**

- Annual **Tax payment** exceeds of **Rs. 25 Lakhs**.
- **Tax payable** or **Taxable Turnover** compared with preceding year **falls by 10%**.
- Dealer whose **accounts/documents** or **inventory** of goods have been **seized** vide sec.67 (3) (c) (iii).
- **ITC claimed** compared to previous year **exceeds 10%**.
- At year-end amount of **ITC, C/F exceeds 20%**.
- Dealer under **Incentive Scheme** or **SEZ** or **EOU**.
- **Random sampling method - Selection by CCT - Trade or Dealer or Nature of Transaction.**

S. 34A: CCT opines that **to pay less tax transaction is accounted**, he shall calculate fair market price.

S. 35 Turnover escaping assessment :>>> Rule 32 <<< Notice in Form 303

- Where the dealer is assessed u/s 32,33 or 34 & CCT has reason to believe that taxable turnover is – escaped in assessment; **or** under assessed; **or** assessed at lower rate of tax; **or** wrongly been allowed deductions **or** ITC then. Limitation clause **5 years from end of the year** to which tax is assessable.

S. 36 Refund of Excess payments:

- Refund per Return be adjusted against Tax due/payable in any subsequent period of the year– S.36 (2).

S. 37 Provisional Refund: >>> Rule 37 OR 40<<<

- Return shows amount refundable then pending the assessment application be moved-**Form 306** to CTO.
- Upon Bk Guarantee-Other Security–amount equal to refund – the authority will grant provisional refund.
- Case will also be directed for provisional assessment – finding excess interest shall be charge @18%.

S. 38 Interest on Refund: >>> Rule 40 <<<

- Audit assessment u/s 34 results in refund then interest @ 6% from end of the year.
- If the case results in refund by Court Order interest @6% from the date of Order receipt 30 days.
- Vide section 40(1) the GOG can issue GNFD & authorise CCT to grant refund of Tax separately charged by R.D. who have purchased the goods from such dealer.

S. 18 Dispute regarding Jurisdiction:

- For any notice served after expiry of 30 days it cannot be questioned.
- For objection the opportunity will be provided whose decision shall be final.

S.62 Accounts: >>> Rule 45 <<<

- Whether **taxable or not** every dealer shall maintain such accounts at the place of business.
- Shall maintain **register** collection & VAT payment; Tax Invoice; ITC claim; deliver challan; C/N & D/N.
- Shall maintain *monthly stock a/c* in respect of commodity dealt, should tally physical stock- location.
- Shall maintain *monthly production a/c* showing quantity of R/M; & quantity of goods manufactured.
- Shall keep *particulars* of names & addresses **buyer & seller** of the goods.
- Shall keep *records & particulars* of the **goods disposed** of without consideration.
- **Commission agent; broker** etc. shall maintain **accounts** of goods sold/received for each principal, statement; tax paid challan with number & date of remittance of tax.
- **WC** shall keep particulars of name & address of the contractee; goods procured; used in WC; revenue & labour exp. Such amount shall be reasonable to the nature of respective WC.
- **TRU** shall keep particulars of name & addresses of person to whom he has delivered the goods for use; details of amount received of each transaction; monthly stock of each commodity.
- Registers required by Law shall be sequentially numbered- computer hard copy thereof on monthly basis

- Entry accounted shall not be erased/overwritten, incorrect entry shall be scored out & correct entry be recorded. However if maintained by computer then printout hard copy of such correction/change.
- Invoice, declarations, waybills, delivery notes relating stock, delivery, purchase/sales-*preserved 6 years*

S. 63 Audit of Accounts: >>>R. 44 <<<

- T.O. when **exceeds Rs. 1 Crore** - (taxable T.O. Rs lakhs).
- To be audited **within 6 months** from the end of the year.
- To be **audited** & obtained **certificate** by *C. A.; Cost Accountant; Legal Practitioner; VAT Practitioner.*
- Auditor shall *verify* - accounts – documents – registers – goods mfg. / produced – transferred – purchases – sales – disposal in respect of each commodity whether taxable or not.
- Auditor shall certify the **correctness** of ITC claimed & report whether fair & reasonable method adopted.
- Auditor shall state whether dealer has made **true & proper calculation & payment of tax.**
- Copy of the **Report & ITC** required to be furnished to the CTO **within 1 month** from date of receipt.
- Failure to furnish copy of the audit report **penalty** shall be maximum of **Rs. 10,000.**
- Registers, accounts & documents maintained shall be *sequentially numbered* – computer hard copies.

R. 45 Inventory Accounts & Records:

- Every dealer except lump sum shall maintain **Quarterly stock** inventory for each commodity.
- Every dealer shall maintain **subsidiary accounts** for each place of his business, godown & warehouse.
- Every dealer dealing in commodity of Motor Sprit & HSD shall maintain **daily stock in Form 213.**

S. 67 Production & Inspection of accounts & documents & search of premises:

- CCT believe dealer evaded/attempting to evade VAT payment- will record the reason-search & seizures.
- For cause CCT enter & search business place verify accounts-registers-stocks to find out information.

- Goods in transport can be detained or stopped & enter for search & elicit information from carrier.
- The provisions of CPC shall apply to a search proceeding.

S. 68 Inspection of Goods in Transit: >>> R. 47/51 <<<

- Person in-charge of vehicles shall carry with him a logbook, sale bill, challan, & other documents.
- Authority shall verify with record, logbook, document, Form, if false or signature differs, seize goods.
- Authority shall provide opportunity of being heard & when not satisfied impose **penalty 150%**.
- Authority shall release the seize goods on payment of Tax, Interest & Penalty.
- Authority during verification may direct transporters not to part / re-transport / re-booking of goods.
- For seized goods person fails to establish the ownership CCT has right to go for public auction.
- **Carrier or clearing forwarding agent** holds custody for delivery or dispatch of goods shall maintain a/c.

R. 47 Auction of goods:

- Auction shall be made where **purchase invoice** relating to goods is **not available**.
- CCT shall *inform to person* from whose possession the goods have been acquired.
- *Open auction*, publication in 2 local Newspaper – Hung up for view – informs the concern person.
- After recovery of amount if any balance remains person shall apply to CCT – inquiry – pass order.
- Person desire to release of seizes goods shall approach CCT pay the amount including any charges.

R. 51 Declaration & Procedure:

- Specified Goods movement **within the State** shall be accompanied by prescribed **Form 402**.
- Goods **moving to OGS** shall be accompanied by Statutory **Form 402**.
- Goods **entering from OGS** shall be accompanied by **Form 403**. {specified goods authenticated Form}
- Forms shall be issued by Registering authority - **Fee Rs.25** – furnish the accounts & satisfy tax payable.
- Forms shall be filled in triplicate – Original & Duplicate shall be carried with vehicle.

- Original be deposited at check post-Duplicate should be endorsed–No check post Original to consignee.
- Original of Form 403 be deposited at check post-receipt thereto shall be obtained on Duplicate/Triplicate
- Duplicate of Form 403 be forwarded to consignee & Triplicate be retained by carrier.

S. 69 Transit pass – goods passing through State: Prescribed **Form 404** – system as above.

S. 20 Powers of Tribunal & CCT:

- Powers of Civil Court, receiving of proof of facts on affidavit.
- Summoning & enforcing the attendance of any person, & examining on oath or affirmation.
- Compelling the production of documents or Issue commissions for examining the witness.

S. 70 Furnishing of information by owners:

- Owner of the cold storage, warehouse, godown or any other such place, who stores therein any taxable goods, Shall maintain a correct & complete account indicating particulars of person whose goods are stored – quantity, value & date of delivery.
- CCT when demand such accounts shall be produced or extracts to be furnished.
- Contraventions of the provision will lead to evasion of tax, shall pay *penalty equal to amount of tax*.

S. 70A Furnishing of information by others:

- CCT may ask information or extract of account of any person from Bank, Post Office, and Institute.
- Failed to act for above - *penalty Rs. 25,000*.
- Person who holds the custody of goods shall permit the inspection & provide information.
- Person who maintains or possesses books of accounts etc. shall produce before CTO / allow inspection.

- Failed to act for above - *penalty @ 150%*.
- If *no claim* is made **within month** when goods are detained, CCT may proceed for auction.

S. 72 Reconstitution of records:

- Records if destroyed due to fire-natural calamity-event CCT may call to produce accounts-registers documents-copies-fresh returns-furnish true copies-extract from documents already submitted to office.

S. 72 Appeal:

- Feeling aggrieved by order first appeal or second appeal can be filed within 60 days in Form 501.

S. 75 Revision:

- From the date of order passed by CTO/AC/DC/JC, CCT may revise at his own motion **within 3 years**.
- For exercising such powers CCT will serve notice & will pass order **within 5 years** from it.
- From date of order passed within 1 year dealer also shall have apply in **Form 502**.

S. 78 Appeal to High Court:

- When the Tribunal passes order appeal shall lie to High Court. – HC should be satisfied that case involved substantial question of law.

S. 79 Rectification: Mistake apparent on record of facts, glaring one & no debate - **time limit 2 years**.

S. 59A Deduction at Source >>> R. 65 <<<

- Specified WC means a works contract, the specified sale price of which **exceed one crore rupees**.
- Person paying SSP for carrying out work in pursuance of the specified WC – TDS @ **2% / 0.60%**.
- Contractor responsible for paying specified sale price to sub contractor should deduct 2%TDS.
- Amount of TDS shall be paid in treasury **within 22 days**.
- Contractor or sub contractor not liable to pay tax shall make application to CCT.
- Upon application CCT satisfied contractor / sub contractor is not liable to pay Tax shall issue Non TDS
- Such certificate when produced person responsible for paying specified sale price shall not deduct TDS.
- Person who does not deduct TDS shall be liable to pay penalty @ **25%** of the amount required to it.

SSP means Specified Sale Price in relation to WC, such amount shall arrive by deducting labour, inter State - Import purchase. **Form 702** is to be tendered along with the running bill for payment. Person making payment to contractor/contractor to sub contractor shall deduct the referred amount while deducting TDS amount. (GOG is exempted from deduction of TDS amount – **deleted from 1/4/08**). Person or dealer deducted TDS shall issue **Form 703** along with TDS challan and shall provide the account thereof to CTO in **Form 704** before 30th June for every financial year.

Note: Every care has been taken to reduce the error & to ensure the accuracy in preparing this brief note. However to error is human, it may please be notified that author shall not be responsible for any damage or loss directly or indirectly by relying upon this note. Such error or omission may pl. be brought to notice.

Abbreviation:

GVAT – Gujarat Value Added Tax

A/C – Accounts

B/S – Balance Sheet

BT – Branch Transfer

C/F – Carry Forward

CST – Central Sales Tax
CCT – Commissioner of Commercial Tax
CTO – Commercial Tax Officer
GOG – Government of Gujarat
GNFD – Government Notification Finance Department
GST – Gujarat Sales Tax
GTO – Gross Turn Over
GUJ – Gujarat
IND – Individual
OGS – Out of Gujarat State
PT – Purchase Tax
P/L – Profit & loss Account
RC – Registration Certificate
R/M – Raw Materials
S/P – Sales and/or Purchases
SSP – Specified Sales Price
TC – Tax Credit
TDS – Tax Deducted at Sources
TRU – Transfer of Right to Use
T.O. – Turn Over
TTO – Taxable Turn Over
URD – Un Registered Dealer
VAT – Value Added Tax
WC – Works Contract

PENALTY UNDER GVAT ACT, 2003

Subject	Reason	Penalty	Remark
Tax Credit	Tax Credit not eligible even than claimed	Twice the TC	Y
12(7)	Tax Credit claimed is more than legitimate	Twice the TC	Y
Change	Name - Place- Style - Constitution - Nature of Business - Temporary close over 30 days.	per day Rs.100 maximum Rs.5000	Y
26(5)			
Cancellation	Business discontinued & do not intimate	per day Rs.100	Y
27(9)	Business is transferred & do not intimate	per day Rs.100	Y
	Business is wound up or ceases to exist	per day Rs.100	Y
	Firm or A.O.P. dissolved & do not apply for cancellation	per day Rs.100	Y
	Change in place of different jurisdiction do not intimate	per day Rs.100	Y
	Liability ceased & do not apply for cancellation	per day Rs.100	Y
	Failes to surrender the RC otherwise than appliction at his own	per day Rs.100	Y
Return			
29(5)	Do not file return in time	per default Rs.10,000	N
Tax Collection			
31(4)	Not registered & collect TAX	Of the Tax amount	N
	Lump sum dealer collect Tax	Of the Tax amount	N
	Registered dealer if not liable to collect & collect	Of the Tax amount	N
Audit Asstt.			
34(5)	CTO unlawfully prevented from conducting proceeding	Of the Tax so assessed	Y
34(7)	in order to evade tax failed to file return	150% of the tax assessec	Y
	In order to evade tax furnish incomplete return	150% of the tax assessec	Y
	In order to evade tax availed ITC which he is not eligible	150% of the tax assessec	Y
	In order to evade tax employ incorrect method which CTO do not find comfortable assess	150% of the tax assessec	Y
	In order to evade tax furnish false or incorrect self assessment	150% of the tax assessec	Y
34(8)	Dealer liable to pay tax do not get registered	URD tax or 5000 >higher	Y
34(12)	Assessed Tax if exceeds 25% in assessment u/s 30(1)/(2) or (3)	150% of the tax assessec	Y
TDS			
59B(12)	Person liable to TDS does not deduct	< 25% of the TDS	Y
Invoice			
60(3)	Tax invoice can'be issued by Sch I - S. 5(2) - s. 14 - OGS - Export - URD dealer if issue	< 10% of the Trabsaction	Y
Audit			
63(2)	Failes to get Audut	< Rs. 10,000	Y
Bank			
66(2)	Failes to intimate	< Rs. 10,000	Y
Specimen			
66A(3)	Failes to provide	< Tax payable on transact	Y
Transit pass			
69A(1A)	Failes to carry transit pass throuth the State	150% of the tax assessec	Y
69A(2)	Goods not found in accordance with the pass	150% of the tax assessec	Y