

Technical Guide on Tamil Nadu VAT Audit

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Professional Development Committee
The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)
New Delhi

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Foreword

It is always one of the cardinal principles of economic administration that goods and services should be made available to the general public at affordable prices. Through centuries, nations have experimented with various types of tax systems with the twin objectives of deriving revenue as well as to keep in check the rise in prices of commodities.

After several attempts to tackle with the inflationary effect on prices, a system of Value Added Tax was evolved. VAT is a tax, based on sound economic rationale and, if implemented effectively, will result in the reduction in prices of goods and services. It is a transparent system of tax since meticulous documentation is a *sine quo non* for its proper implementation.

From the 1st of April 2005 onwards, a system of State-Level VAT has been introduced in a majority of the States of India. The most important ingredient for the success of State-Level VAT is widespread education among the traders, general public, Government authorities and professionals. The ICAI has published "State-Level VAT in India – A Study" which explains the general principles for State-Level VAT.

In order to assist the members to understand the provisions of individual State-Level VAT legislations with particular reference to audit requirements, the Professional Development Committee has taken this initiative to bring a Technical Guide on Tamil Nadu VAT Audit.

Certainly, this Guide on Tamil Nadu VAT Audit will help the members to understand the intricacies of the provisions of Tamil Nadu VAT Act and its audit implications.

I compliment CA. Charanjot Singh Nanda, Chairman, Professional Development Committee and his dynamic team for taking this excellent initiative which will assist the members in discharging their responsibilities under Tamil Nadu VAT Act.

Date: 6th February, 2013

Place: New Delhi

CA. Jaydeep Narendra Shah

President, ICAI

Preface

VAT is revolutionary in the realm of taxation of commodity and services. It is an internationally recognized multipoint tax system providing for levy of tax on sale of goods as well as on rendering of services on the value addition occurring at every stage of sale or transfer. The principle of VAT contemplates levy of tax at the point of consumption and realization of full tax on the final sale value from the consumer.

This guide is an attempt to explain the applicable Value Added Tax Audit Guidelines under the Tamil Nadu Value Added Tax Laws and is written with a view to create awareness among the users and send the message of usefulness of VAT audit to State administration.

An attempt has been made in this technical guide to cover areas that are related to the basic principles, policies and special issues pertaining to conduct of a Value Added Tax Audit. However, it does not deal with legal interpretations and rulings. This guide is intended to give a general guidance to chartered accountants to address various issues that may arise in the course of audit. Of course, various individual's practical issues have to be solved by exercising professional judgement.

Realizing the importance of giving guidance to the members in discharging their responsibilities relating to State-Level VAT, I express my sincere gratitude to CA. Rajendra Kumar P., CA. J. Murali, CA. J. Purushothaman, CA. L. Seshadrinathan, CA. N. R. Govindarajan, CA. Netal Munoth, CA. P. Ravindranath Naidu, CA. P. Sankaran, CA. Prasanna Krishnan, CA. Uttamchand Jain, CA. V. Gayathri, CA. V. Swaminathan, CA. V. V. Sampath Kumar for their sincere efforts in drafting the entire technical guide. I am also happy to acknowledge the active support rendered by CA. Jaydeep Narendra Shah, President, ICAI and CA. Subodh Kumar Agrawal, Vice- President, ICAI for their unstinted support and encouragement to the activities of the PDC.

I am also thankful to CA. Naveen N. D. Gupta, Vice-Chairman and CA. Namrata Khandelwal, Secretary and CA. Akshika Dhingra, Executive Officer of Professional Development Committee and other members of the Committee for their active support.

I am sure that this guide will give enough technical guidance to Chartered Accountants to have an understanding of the Tamil Nadu State VAT laws.

Date: 6th February, 2013

Place: New Delhi

CA. Charanjot Singh Nanda

Chairman, Professional Development Committee

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Chapter 1

Introduction

Value Added Tax (VAT)

Value Added Tax (VAT) that exists in many countries is a multi-point tax levy on goods as against the sales tax which was generally taxed at single point. In India, the VAT on goods is a State subject. The entry 54 of the State list of the Constitution of India mentions about the States' power to levy taxes on the sale or purchase of goods. Under the VAT system, the concept of exemption on second sales is not available. VAT is collected on the value addition to the goods made at various stages involved in the supply chain distribution of goods till it reaches the end consumer. The selling dealer gets credit for the VAT paid on the purchases effected by him. The effect of offsetting VAT on purchases against VAT on sales is to impose the tax on the added value at each stage of production – hence Value-Added Tax. For the final consumer, not being VAT-registered, VAT simply forms part of the purchase price.

1. Objectives of VAT

Some of the objectives of the VAT on sales of goods are:

- Minimizing the cascading effect of sales tax,
- Widening of tax net,
- Self policing system and minimization of tax evasion,
- Simplification of procedures,
- Optimizing the tax cost, etc.

2. Audit under VAT Legislation

2.1 Tamil Nadu Value Added Tax Act (TNVAT Act), 2006

By Act 18 of 2012, Section 63-A was inserted vide notification in Gazette 145 dated 1st June 2012 which was made effective from 30th August 2012, vide GO.Ms.No.118 dated 30th August 2012. According to Section 63-A(1), every registered dealer whose total turnover including zero-rate sale and sale in

the course of inter-State trade or commerce as specified in Section 3 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) in a year, exceeds one crore rupees, shall get his accounts in respect of that year, audited by an Accountant and submit a report of such audit in the prescribed Form, duly signed and verified by the Accountant, to the Assessing authority, within such period as may be prescribed.

Explanation—For the purpose of this section “Accountant” means, a chartered accountant as defined in the Chartered Accountants Act, 1949 (Central Act 38 of 1949) or a cost accountant as defined in the Cost and Works Accountants Act, 1959 (Central Act 23 of 1959).

The above requirement of audit shall not apply to the departments of Central and State Governments, local authorities, the railway administration as defined under the Railways Act, 1989 (Central Act 24 of 1989), the Tamil Nadu State Road Transport Corporations and similar such registered dealers, as may be notified by the Government.

Other legal provisions relating to VAT Audit/Inspection by Commercial Taxes Departmental Officials are covered in Section 64(4) and Section 65 of TNVAT Act, 2006.

The Departmental Audit under Section 64(4) by VAT officials of the Department is a special provision which is with prior intimation to dealer concerned. The surprise inspection by VAT audit officials is as per the provisions of Section 65.

2.2 Scope of Audit

The comparative scope and other related aspects of audit by chartered accountants and by the commercial taxes officials is tabulated below:

Particulars	Audit by Chartered Accountant	Departmental Audit	Surprise Inspection by Department
Section	Section 63A	Section 64(4)	Section 65
Time	Within seven months from the end of financial year	Any time	Any time
Period	Assessment year	Without reference to Assessment Year	Without reference to Assessment Year
Audit by	Chartered Accountant in full time Practice	Departmental Officials	Enforcement Wing Officials
Outcome	Report in Form WW with annexures and enclosures.	Notice will be issued by Assessing Officer based on the audit findings.	Proposals are formulated by Enforcement Wing.
Place	At dealers' place(s)/auditors' place, etc.	At registered place of business where accounts and stock are kept.	At any place of transactions where suppression is suspected.

3. Audit Report

Further, Rule 16A has also been inserted to TNVAT Rules, 2007 w.e.f. 30th August, 2012 which states as follows:

Procedure for filing Audit Report under Rule 16A:

- (1) Every registered dealer is liable to get his accounts audited as per sub-section (1) of Section 63A and shall furnish the audit report in Form-WW within seven months from the end of the year in duplicate.
- (2) The notice of penalty will be issued in Form-RR.

(The specimen Form WW and Form RR is given in the CD along with the Technical Guide)

Form WW prescribes annexures containing certain prescribed particulars and a descriptive report of the findings on non compliance, short comings and deficiencies in the returns filed by the dealer along with the copies of trading, profit and loss account and balance sheet.

The trading, profit & loss account and balance sheet referred above pertains to the activities of the dealer within Tamil Nadu only and if separate accounts are maintained in respect of operations outside Tamil Nadu, it may be convenient to prepare the statements and submit the same by the dealer.

Where the Principal is a non resident of the State of Tamil Nadu, the transactions of Agent will be reported in the returns filed by the Agent in the State of Tamil Nadu. The VAT Auditor shall verify the purchases/sales as disclosed in the returns filed, with relevant records and documents.

4. Penalty

As per Section 63-A(2), if such registered dealer fails to get his accounts audited and submit a report of such audit within the prescribed period, as required in sub-section (1), the Assessing authority may, after giving a reasonable opportunity of being heard, direct such registered dealer to pay by way of penalty of sum of rupees ten thousand, in addition to any tax payable, in respect of the said period.

The audit provisions stipulates about the levy of not only the penalty but also the recovery of taxes. The Assessing authority has got the powers under the Act to compel the dealer to submit the audit report (vide Section 81).

Chapter 2

VAT Auditor

1. Introduction

The VAT audit has been introduced in TNVAT Act, 2006 by the Tamil Nadu Value Added Tax (Third Amendment) Act, 2012 and the reasons for introduction of VAT audit are given as follows:

1.1 Statement of Objects and Reasons

Extracts from the G.O. Ms. No. 119 dated 30.08.2012; "At present there is no provision in the TNVAT Act, 2006 (Tamil Nadu Act 32 of 2006) for auditing the accounts of a registered dealer by a chartered accountant or a cost accountant, if the total turnover of the said dealer including zero-rate sale and sale in the course of inter-state trade or commerce exceeds one crore rupees in a year. In order to ensure the correctness of the accounts of the registered dealers, the Government have decided to amend the TNVAT Act, 2006 (Tamil Nadu Act 32 of 2006) suitably".

1.2 Books of Accounts and VAT Audit

Section 64 of TNVAT Act, 2006, deals with the maintenance of books of accounts, documents and records.

New Section 63-A relates to audit. As per the said Section, accounts are to be audited in certain cases as explained below.

(1) Every registered dealer whose total turnover including zero-rate sale and sale in the course of inter-State trade or commerce as specified in section 3 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) in a year, exceeds one crore rupees, shall get his accounts in respect of that year, audited by an Accountant and submit a report of such audit in the prescribed form, duly signed and verified by the Accountant, to the Assessing authority, within such period as may be prescribed.

Explanation.—For the purpose of this section "Accountant" means, a chartered accountant as defined in the Chartered Accountants Act, 1949 (Central Act 38 of 1949) or a cost accountant as defined in the Cost and Works Accountants Act, 1959 (Central Act 23 of 1959).

(2) If such registered dealer fails to get his accounts audited and submit a report of such audit within the prescribed period, as required in sub-section (1), the Assessing authority may, after giving a reasonable opportunity of being heard, direct such registered dealer to pay by way of penalty of sum of rupees ten thousand, in addition to any tax payable, in respect of the said period:

Provided that, this section shall not apply to the departments of Central and State Governments, local authorities, the railway administration as defined under the Railways Act, 1989 (Central Act 24 of 1989), the Tamil Nadu State Road Transport Corporations and similar such registered dealers, as may be notified by the Government.

1.3 Audit Report

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Procedure for filing Audit Report under Rule 16A:

- (1) Every registered dealer is liable to get his accounts audited as per sub-section (1) of Section 63A and shall furnish the audit report in Form-WW within seven months from the end of the year in duplicate.
- (2) The notice of penalty will be issued in Form-RR.

(The specimen Form WW and Form RR is given in the CD along with the Technical Guide)

2. Chartered Accountant

In terms of Section 2(1)(b) of The Chartered Accountants Act, 1949(No. 38 of 1949) [As amended by The Chartered Accountants (Amendment) Act, 2006 (No. 9 of 2006)], a chartered accountant means a person who is a member of the Institute.

2.1 Members in Practice

In terms of Section 2(2) of The Chartered Accountants Act, 1949 (No.38 of 1949) [As amended by The Chartered Accountants (Amendment) Act, 2006 (No. 9 of 2006)] a chartered accountant in practice means, a member of the Institute shall be deemed to be in practice, when individually or in partnership with chartered accountants in practice, he, in consideration of remuneration received or to be received:

- (i) engages himself in the practice of accountancy; or
- (ii) offers to perform or performs services involving the auditing or verification of financial transactions, books, accounts or records, or the preparation, verification or certification of financial accounting and related statements or holds himself out to the public as an accountant; or
- (iii) renders professional services or assistance in or about matters of principle or detail relating to accounting procedure or the recording, presentation or certification of financial facts or data;
- (iv) renders such other services as, in the opinion of the Council, are or may be rendered by a chartered accountant in practice; and the words be in practice with their grammatical variations and cognate expressions shall be construed accordingly.

2.2 Certificate of Practice

In terms of Section 6 of The Chartered Accountants Act, 1949 (No. 38 of 1949) [As amended by The Chartered Accountants (Amendment) Act, 2006 (No. 9 of 2006)]:

(1) No member of the Institute shall be entitled to practice whether in India or elsewhere unless he has obtained from the Council a certificate of practice;

Provided that nothing contained in this sub-section shall apply to any person who, immediately before the commencement of this Act, has been in practice as a registered accountant or a holder of a restricted certificate until one month has elapsed from the date of the first meeting of the Council.

Section 63-A of the TNVAT Act, 2006 provides that in certain circumstances, the accounts are to be audited by a chartered accountant. In terms of the above definition and as per the provisions of The Chartered Accountants Act, 1949, no member can practice without holding a certificate of practice. Therefore, only a chartered accountant holding certificate of practice can audit accounts.

Similarly, Section 2(2) of The Chartered Accountants Act, 1949 provides that a member of the Institute is also deemed to be in practice when he provides services in partnership with chartered accountant(s). In view of this provision, the audit can also be conducted by a firm of chartered accountants. In such a case, it would be necessary to state the name of the partner who has signed an audit report on behalf of the firm. A member of the Institute can practice

either in his individual name or in the trade name e.g. "ABC & Co.". The member signing the report as a partner of the firm or in his individual capacity or in trade name should also give his membership number as well as firm registration number below his name.

Section 63-A of the TNVAT Act, 2006 does not stipulate that the statutory auditor appointed under the Companies Act, 1956 or other similar statutes should only perform the audit. Hence, the audit can be conducted either by the statutory auditor or by any other chartered accountant who is in full time practice or by a firm of chartered accountants.

2.3 Members in Part Time Practice

The Council at its 242nd Meeting has passed a Resolution, effective from 1st April 2005, that any member in part time practice (holding certificate of practice and also engaging himself in other business or occupation) is not entitled to perform attest function. It was also clarified in this regard that certain circumstances like engagement in part time lecturer ship, editorship of magazine, etc. are not considered as part time practice, subject to the condition mentioned in the resolution.

The audit under the TNVAT Act, 2006 being an attest function, the resolution of the Council is therefore, also applicable for such audit. Therefore, any member in part time practice cannot perform an audit under the TNVAT Act, 2006.

A member in part time practice can be a partner in a firm of chartered accountants, but if the audit under the TNVAT Act, 2006 is to be conducted by the firm, then the audit has to be conducted by the member who is in full time practice only. In other words, a partner holding a part time certificate of practice cannot sign the audit report/certificate under the TNVAT Act, 2006.

3. Joint Auditors and VAT Audit

A dealer can appoint two or more chartered accountants as joint auditors under the TNVAT Act, 2006 in which case the audit report will have to be signed by all the joint auditors. In case of disagreement, they can give their report separately. In this regard, attention is invited to SA 299 - Responsibility of the Joint Auditors. The responsibility of joint auditors under the TNVAT Act, 2006 will be the same as in the case of other audits e.g. audit under the Companies Act, 1956 or the Income- tax Act, 1961.

4. Branch VAT Auditors

It is also possible for a dealer to appoint separate auditor(s) under the TNVAT Act, 2006 for conducting the audit in respect of any branch/division/additional place of business, etc. and there could be separate auditor(s) for principal place of business. In such a case, the branch auditor(s) will have to submit report(s)/certificates to the management or, if requested, to the auditor(s) appointed for conducting the audit for the principal place of business and such reports will have to be considered and dealt with appropriately by such auditor(s) while consolidating the report for the business as a whole.

5. Relatives or Employees as VAT Auditor

The TNVAT Act, 2006 does not prohibit a relative or an employee of the dealer being appointed as an auditor under Section 63-A. However, it is to be noted that in the application of framework to specific situations, as per Para 290.148 given at page no. 57 of Code of Ethics, Eleventh Edition, January 2009, it has been stated that "No person who is an officer or employee of the entity shall be qualified for appointment as auditor of that entity".

It may also be noted that as per clause (4) of Part I of Second Schedule of the Code of Ethics, a chartered accountant in practice shall be deemed to be guilty of professional misconduct if he expresses his opinion on Financial Statements of any business or enterprise in which he, his firm or partner in his firm has substantial interest. This would cover any attest function under any statutory enactments

Therefore, an employee of the dealer and also where the member has substantial interest in a concern, cannot audit the accounts of the dealer under Section 63-A of the TNVAT Act, 2006.

6. Consultant as VAT Auditor

Chartered Accountant/Firm of Chartered Accountants, appointed as tax consultant/s of the dealer, can conduct audit or not under Section 63-A of the TNVAT Act, 2006 depends upon the facts and circumstances of the scope and terms of engagement. As long as the position of Consultant does not compromise the independence of audit assignment, it may be undertaken.

In relation to audit under Companies Act, 1956, the Council has clarified that the statutory auditor of a company cannot be its internal auditor. The same principle may not apply in respect of VAT audit under the TNVAT Act, 2006.

7. A member of the Institute in practice shall not accept the appointment as statutory auditor of Public Sector Undertaking(s)/Government Company(ies)/Listed Company(ies) or any other Public Company(ies) having turnover of Rs. 50 crores or more in an year where he accepts any other work(s) or assignment(s) or service(s) with regard to the same Undertaking(s)/Company(ies) on a remuneration which in total exceeds the fee payable for carrying out the statutory audit of the same Undertaking/Company.

Provided that, appointing authority(ies)/regulatory body(ies) specify(ies) more stringent condition(s)/restriction(s), the same shall apply instead of the conditions/restrictions specified under these Guidelines.

The above restrictions shall apply in respect of fees for other work(s) or service(s) or assignment(s) payable to the statutory auditors and their associate concern(s) put together.

For the above purpose,

- (i) the term "other work(s)" or "service(s)" or "assignment(s)" shall include Management Consultancy and all other professional services permitted by the Council pursuant to Section 2(2)(iv) of the Chartered Accountants Act, 1949 but shall not include:-
 - (a) audit under any other statute;
 - (b) certification work required to be done by the statutory auditors; and
 - (c) any representation before an authority;
- (ii) the term "associate concern" means any corporate body or partnership firm which renders the Management Consultancy and all other professional services permitted by the Council wherein the proprietor and/or partner(s) of the statutory auditor firm and/or their "relative(s)" is/are Director/s or partner/s and/or jointly or severally hold "substantial interest" in the said corporate body or partnership;
- (iii) the terms "relative" and "substantial interest" shall have the same meaning as are assigned thereto under Appendix (9) to the Chartered Accountants Regulations, 1988.

In regard to taking up other work(s) or service(s) or assignment(s) of the undertaking/company referred to above, it shall be open to such associate concern or corporate body to render such work(s) or service(s) or assignment(s) so long as aggregate remuneration for such other work(s) or

service(s) or assignment(s) payable to the statutory auditor/s together with fees payable to its associate concern(s) or corporate body(ies) do/does not exceed the aggregate of fee payable for carrying out the statutory audit.

Therefore, an audit under Section 63-A of TNVAT Act, 2006 will be considered as an audit under any other Statute for the purpose of this notification and thus, the above restriction shall not apply in respect of audit fees.

8. Appointment of an Auditor when he is Indebted to a Concern

A member of the Institute in practice or a partner of a firm in practice or a firm shall not accept appointment as auditor of a concern while indebted to the concern or given any guarantee or provided any security. In connection with the indebtedness of any third person to the concern, for limits fixed in the respective statutes and in other cases the limit is fixed for amount exceeding Rs. 10,000/-.

9. Audit Engagement

A dealer liable to get his accounts audited under the provisions of Section 63-A of the TNVAT Act, 2006 is required to appoint a Chartered Accountant or a Firm of Chartered Accountants as VAT Auditor. No procedure has been specified under Section 63-A or under any other provisions of the TNVAT Act, 2006 or the Rules there under.

It is suggested that the following procedure shall be followed by an auditor for appointment under Section 63-A of TNVAT Act, 2006:

- (a) A letter of appointment is to be obtained from the registered dealer, subject to VAT audit. The said letter is to be obtained shall be signed by a person competent to appoint such VAT auditor. In case of a Company or certain other legal entities, the appointment must be made, following the procedures or policies of the entity. There are no specific provisions in this regard, either under the TNVAT Act, 2006 or under the Companies Act, 1956.
- (b) When there is a principal auditor for carrying out the VAT audit of a dealer and when there is any appointment of different auditors for each of the branches/units of a dealer separately, it would be advisable to incorporate the fact that the appointment is for a

particular branch or unit, and that the branch VAT audit report shall be sent to the dealer/principal auditor.

- (c) The letter of appointment must be in terms of SA 210 - Terms of Audit Engagement, indicating the terms of the engagement, the scope and the extent of the coverage. In case, joint auditors are appointed by the dealer under the TNVAT Act, 2006 then the name and address of such joint auditors must be specified in the letter of appointment. The letter of appointment may stipulate the fee/remuneration. The said letter of appointment must be duly acknowledged by the VAT auditor and accordingly a letter of acceptance of audit should be issued to the dealer.

(Suggested format of letter of appointment and acceptance is given in the CD along with the Technical Guide).

10. Acceptance

- (1) Before acceptance of VAT audit, the VAT auditor is expected to ensure that he is eligible to conduct the audit. It may be noted that under the TNVAT Act, 2006 there is no ceiling in respect of the number of the audit assignments that an auditor can accept.
- (2) It is recommended for the auditor accepting the VAT audit assignment to communicate with the previous auditor who has conducted the VAT audit in the prior year(s). While communicating it would be advisable to find out whether there are any professional or any other reasons as to why the auditor should not accept the appointment. It may be noted that, it is not required for the VAT auditor to communicate with the statutory auditor who has conducted the audit of the dealers under any other law for time being in force.

11. Audit Fees

There are no separate guidelines issued by the ICAI in respect of audit fees for an audit under the TNVAT Act, 2006. The minimum recommended scales of fees for professional services issued by the ICAI from time to time may be adhered to (the said scale is given in the CD along with the Technical Guide). Normally, VAT auditor is expected to charge his audit fee based on the quantum of work, scope of the engagement, personnel deployed, etc. However, it must be noted that the turnover of a dealer, quantum of tax paid, refunds envisaged etc., cannot be a basis for

fee to be charged. Fees cannot be fixed, based on the percentage of trading profits or any such method.

12. Removal and Filling up of Vacancy of VAT Auditor

TNVAT Act, 2006 is silent on this issue. Generally, a dealer being the appointing authority, may remove the VAT auditor for delay in submission of reports; unreasonable delay in conducting the audit, etc.

However, a VAT auditor cannot be removed on the ground that he has given an adverse report or on the possibility of qualifying the report. Reference can also be made to ICAI pronouncements, if any, in this regard.

Where any such vacancy is created on account of removal, death, resignation, etc. of a VAT auditor, the dealer being the appointing authority can appoint another auditor under TNVAT Act, 2006.

13. Submission of the VAT Audit Report

A VAT auditor is required to submit the report to the dealer appointing him, as prescribed under the TNVAT Act, 2006.

Chapter 3

Approach to VAT Audit

There are no prescribed or specified approaches for conduct of an audit under the TNVAT Act, 2006. However, certain similarities may be drawn between a VAT Audit, Tax Audit under Section 44AB of the Income Tax Act, 1961 and audit under Companies Act, 1956. While a VAT auditor is not required to express his opinion on *true and fair view* of the financial statements, he is required to certify the correctness and completeness as prescribed by the TNVAT Act, 2006.

In this background, certain time tested methods of conducting an audit have evolved suggested guidelines, which among others are as follows:

- (1) Agreeing the terms of Audit Engagement – SA 210
- (2) Obtaining prior knowledge of the business and comparing them with similar businesses; SA 315
- (3) Discussion with the audit team on how to proceed with the audit; SA 315, SA 320 and SA 330
- (4) Study and evaluation of systems and internal control of the business entity; SA 315
- (5) Assessment of the audit risk and deployment of personnel, preparation of an audit plan/audit program; SA 315, SA 320 and SA 330
- (6) Risk appetite of the entity; SA 315
- (7) Conducting the audit in accordance with an audit plan and program, review meeting with the audit team; SA 500
- (8) Drawing conclusions on the basis of audit evidence obtained in the course of conducting the audit and a discussion with the client on the observations and findings; SA 500
- (9) Obtaining the various management certificates; SA 580
- (10) Reporting the observations in the prescribed format; Form WW
- (11) Compiling audit working papers and preparing a master file of the clients/or permanent master file; SA 230

- (12) Filing of documents either in permanent file or working papers file;
SA 330

While adhering to each of the above said stages of audit, an auditor should bear in mind the scope of his engagement, objectives of the audit as well as the requirements of the Statute. The audit tools to be used for conducting the VAT audit depend upon the environment in which the audit is being conducted. In an IT (Information Technology) record keeping environment, computerized audit approach using various information technology audit techniques and tools would be appropriate. The guidelines stated above are briefly explained hereunder:

1. Agreeing to the Terms of Engagement

The auditor shall agree the terms of audit engagement with the management or those charged with the governance, as appropriate. The agreed terms shall be recorded in an audit engagement letter or any other suitable written format. It shall contain the following:

- (i) The objective and scope of audit of the financial statements.
- (ii) The responsibility of the auditor and that of the management.
- (iii) Identification of applicable financial reporting framework (if any).

2. Knowledge of the Business

An auditor is expected to identify and assess risks of material misstatements in financial statements and this is done through an understanding of the business of the entity, its environment and its internal control. The knowledge of the business must be used by the auditor in assessing the inherent control risks in determining the nature, timing and extent of audit procedures/ verification. He must be aware of the trade practices. It is possible that certain types of trades have very localized or seasonal business practices.

3. Discussion with the Audit Team

Before the commencement of the audit, the VAT auditor should have a pre-audit meeting with his audit team. In this meeting, the auditor should brief the team on matters such as general background of the dealer, nature of business, history of the dealer, industry specific points, key financial parameters and accounting policies, organisation of the business, maintenance of accounts, key-products dealt by the dealer, assessment history, litigation, etc. He should also clearly spell out the scope of work,

extent and manner of checking the various transactions. The auditor would do well, if he has the basic audit plan, audit program and the various audit checklists at this stage itself which could be suitably modified later on during the course of the audit, if required.

4. Systems and Internal Control

The systems, processes and controls put in place by the business entity will largely define the scope of the auditor in conducting an audit. While conducting a VAT audit, a study of the internal control systems would be an important step for assessing the risks of the audit as well as for planning the audit. A note on the software used by the client and the specific merits and demerits of the software will help the audit team(s).

5. Assessment of Audit Risk and Deployment of Personnel

An audit risk can be inherently present or surface in many forms in a business entity. In many cases, it would be camouflaged and in such circumstances an audit risk can be combated or mitigated by an auditor in many ways. Some of the proven methods would be to apply audit techniques, audit tools, professional expertise, and comparative analysis with similar businesses or evolving techniques, which suit the business. It would also be worthwhile for an auditor to seek expert opinions in certain circumstances to mitigate audit risks. The extent of check by the auditor would depend on the nature of audit risk and the expertise of the personnel deployed by the business.

6. Audit Plan and Audit Program

Audit program is a written document setting forth the procedures to implement the audit plan. Planning encompasses developing a plan for the conduct of the audit and developing an audit program showing the nature, timing, and extent of audit procedures in accordance with the scope of the audit. Planning is a continuous process and changes in case of unexpected results during audit, would require a relook of the audit program. Along with the procedures, the program must also contain the audit objective for each area of the business and should have sufficient details to serve as a set of instructions to the audit assistants involved in the audit and as a means to control proper execution of audit work. For this, a detailed checklist should be devised which clearly states the various details to be checked, manner of

checking and the extent of checking. This ensures that important issues are not overlooked during delegation of work.

7. Risk Appetite of an Entity

Risk appetite of an entity cannot be defined in a clear-cut manner. Normally risk appetite would mean the extent of chance that an entity would be willing to take. For e.g. claiming an exemption or classifying a product at a lower rate of tax, based on certain interpretations or judicial pronouncements. In a situation, where the risk appetite of a business entity is extremely high, it would be worthwhile for an auditor to place reliance on external expertise and suitably comment on the same in the report. An auditor can decide upon the extent of check, depending upon the risk appetite of the entity.

8. Conduct of an Audit

The success of an audit primarily depends upon, the quality of the audit, the verification of the records, transactions in accordance with the audit plan and program. This would help collect audit evidence to form an opinion or draw conclusion on the transactions upon which the auditor is called upon to comment. The conduct of the audit must not be mechanical as per the plan and program, but it must be done with an open mind. It would be of great advantage if the compliance testing or the substantive verification is carried out to complete the VAT audit as per the provisions of the TNVAT Act, 2006 and the Rules framed there under. The knowledge about the judicial pronouncements, Government orders, circulars, notifications, etc. would be relevant. The conduct of an audit, as in the case of any other audit assignment, is substantially dependent upon the judgment of the auditor.

Largely an audit must be conducted keeping in mind the concept of materiality, knowledge of local laws, general auditing and accounting practices, the accounting and auditing standards, guidance notes, etc., issued by the ICAI.

Responsibilities of Joint Auditors

In case of joint audits, the roles and responsibilities of each of the joint auditors should be clearly defined. Some of the points, based on SA 299, which have to be kept in mind for this purpose are:

The division of work among the joint auditors should be based on identifiable units. Where owing to the nature of the business of the dealer, division is not possible as above, the division can be done based on items of assets and

liabilities or income or expenditure or with reference to period of time. The scope and division of work should be documented and communicated to the dealer.

During the audit, if the VAT auditor comes across any matter which are relevant to the areas covered by the other joint auditors and deserve their attention, the same should be communicated in writing to them. This should be done before the final audit report is submitted.

The joint auditor is responsible for the work allocated to him except in the following cases where the responsibility of the joint auditors is joint and several:

- In respect of work not specifically allotted to any one auditor and jointly carried out by all the auditors.
- In respect of the decisions taken by all the auditors regarding the nature, timing and extent of the audit procedures to be adopted by any of the joint auditors.

However, this responsibility is restricted only to the extent of the appropriateness of the decision regarding the timing, nature and extent of the audit procedures. The responsibility concerning the actual execution of the audit procedures is a separate and specific responsibility of the respective joint auditor.

It is the responsibility of each of the joint auditors to determine the nature, timing and extent of audit procedures for his area of work, manner of making enquiries, etc. For e.g., the extent of test check for a given area of VAT audit, has to be determined by the concerned joint auditor after the evaluation of the accounting policies and the internal control system concerning his area of work.

In case of a dealer having several branches, the joint auditor concerned shall be responsible for the review of the branch auditor's report, concerning his area of work and not pertaining to the other joint auditor. In case, one or more branch auditor's report is not concerning any of the joint auditor's area of work, then for such branch audit reports, the joint auditors may mutually decide regarding the division of work.

It is the responsibility of the concerned joint auditors to obtain and evaluate the information, explanations and documents from the dealer pertaining to his area of work.

Each of the joint auditors is entitled to assume that the other joint auditors have carried out their part of the audit work in accordance with the generally accepted audit procedures including matters pertaining to applicable statutory disclosures in the VAT audit report and other legal and professional requirements. It is not necessary for the joint auditor to review the work performed by the other joint auditor.

Each of the joint auditors will issue a final VAT audit report. However, where the joint auditor is in disagreement with regard to any of the matters covered in the VAT audit report, each of them should express his own opinion through separate report. The joint auditor is not bound by the views of the majority of the joint auditors regarding matters to be covered in such audit report.

9. Periodical Meeting with the Audit Team

It is advised to have regular and periodical review meeting with the Audit Team. A preview meet, will help in removing the bottlenecks and the hurdles rather than making the whole audit procedure redundant.

10. Reporting

An auditor has to form an opinion and draw conclusions on the basis of the audit evidence and decide upon the issues, which are required to be reported and commented upon which has the bearing on the TNVAT law and procedure to be adhered by the dealer. In forming such an opinion, the auditor should be diligent to ensure that no material misstatement creeps into the report and also no material matters have been left out from reporting. It would be a good practice to report on matters on which an auditor while conducting an audit under the TNVAT law has placed reliance upon. Before the audit is finalised, a meeting with the client is required discussing with him the audit observations and qualifications, if any. Many of the observations which might look to be major issues to be qualified can be clarified with the client before reporting.

11. Management Representation Certificates

It is advised to obtain all the relevant management representation certificates from the client before the VAT Audit Report is signed. (Format of the same is given in the CD along with the Technical Guide).

12. Audit Report

The auditor has to submit the findings of the VAT audit in Form WW. The report has to be dated & signed and should be accompanied by the relevant annexures. Since, Form WW does not provide for any comments, observations or qualifications, the auditor could carry out the audit and additional notes could be attached to the Form WW.

13. Audit Working Papers File

Once the audit is completed, auditor must ensure that all working papers are segregated and filed in the respective files of the client. It is also very important to ensure the audit working file (both master file and current file) is updated and the filing is done systematically according to the different areas covered in the audit. This will ensure compliance with the professional practice guidelines including peer review requirements.

14. Master File

Every dealer's documents should be bifurcated into permanent file and the working papers file. Generally, the following documents should be included in the permanent file:

- (1) Name, address and contact details of the dealer;
- (2) Brief profile of the dealer, nature of business and locations of branches/godowns, etc., if any along with the details of branch management. The addition/deletion, if any, in such locations or any change in the nature of the business, etc. during the year;
- (3) A list of products being dealt with, the various notifications and clarifications applicable, copies of important judgments and clarification, if any, with reference to the goods dealt with by the dealer;
- (4) Copies of the registration certificates issued under the TNVAT Act, 2006 and under the Central Sales Tax Act, 1956 (CST Act) and other allied laws;
- (5) Copy of TNVAT Audit Report, if any, relating to previous year;
- (6) Copies of the constitution of the dealer, like Memorandum, Articles of Association, Partnership Deed, Addendum to deeds, etc; the list

- of names of Directors, Partners, etc. of the dealer during the year and changes, if any;
- (7) Copies of the application made for Composition Scheme, Special Accounting Scheme, Partial Rebating Application, etc;
 - (8) A list of visits by the various department officials, notices received and replies thereof, pending litigations before various authorities and other important issues unresolved, if any;
 - (9) Copies of other relevant statutory forms;
 - (10) Copies of financial statements and other audit reports;
 - (11) Copies of intimations to TNVAT authorities about addition/deletion of any products deal with, change in address, inclusion of branch/godown, etc.

Chapter 4

Accounting Standards

1. Introduction

With a view to maintain uniformity in the preparation and presentation of the financial statements and facilitate inter firm comparison of various entities, the ICAI has issued various Accounting Standards. These standards are applied while issuing General Purpose Financial Statements to the public by commercial and business enterprises as specified by the ICAI and which are subject to attestation by the members of the Institute. The term General Purpose Financial Statements includes Balance Sheet, Profit and Loss Account, Cash Flow Statements along with the Explanatory Notes there on. Various stakeholders such as investors, Government, financial institutions and the public at large use these statements. In addition, the ICAI has also issued various clarifications and guidance notes on accounting and auditing standards.

2. Applicability of Accounting Standards

The Companies Act, 1956 requires that the financial statements should give a true and fair view of the financial position of the entities which are subject to audit. This view is implicit even in the absence of such a statutory requirement. What constitutes 'true and fair view' has not been defined either under the Companies Act, 1956 or any other statute. The accounting standards including clarifications and guidance notes which describes the accounting principles and the methods of applying these principles in preparing the financial statements so that they give a true and fair view. It is worth noting that Section 211(3A) of the Companies Act, 1956 provides that every profit and loss account and balance sheet should comply with accounting standards. Section 211(3B) of the Companies Act, 1956 provides that where the profit and loss account and the balance sheet do not comply with any accounting standards, such a fact needs to be disclosed along with reasons for non-compliance and the effect of the same on the financial statements.

Sub section (3C) of Section 211 of the Companies Act, 1956 further provides that the expression "accounting standards" means the standards of accounting recommended by the ICAI as may be prescribed by the Central

Government in consultation with the National Advisory Committee on Accounting Standards established under sub section (1) of Section 210A.

Further, under Section 227(3)(d) of the Companies Act, 1956, the auditor has to state in his audit report whether the profit and loss account and the balance sheet comply with the accounting standards referred under Section 211(3C).

In this regard, the Central Government has notified the Companies (Accounting Standards) Rules, 2006 ('hereinafter referred to as 'rules') for all accounting periods commencing on or after 7th December, 2006 vide Notification G.S.R. 739(E) dated 07.12.2006. The accounting standards as notified by the Central Government are a virtual reproduction of accounting standards issued by the ICAI except for a few changes. Thus, for all accounting periods commencing on or after the above date, it is the Central Government notified accounting standards that are mandatory.

As per the rules, every company and its auditor shall comply with the accounting standards as per the annexure to the said rules. However, there are some relaxation and exemptions prescribed for Small and Medium Sized Companies (SMC) from compliance requirements under some accounting standards. Further, there are other compliance and disclosure requirements applicable for all companies including SMC under the rules. The term SMC has been defined as:

Definition of SMC

"Small and Medium Sized Company" (SMC) means, a company –

- (i) whose equity or debt securities are not listed or are not in the process of listing on any stock exchange, whether in India or outside India;*
- (ii) which is not a bank, financial institution or an insurance company;*
- (iii) whose turnover (excluding other income) does not exceed rupees fifty crore in the immediately preceding accounting year;*
- (iv) which does not have borrowings (including public deposits) in excess of rupees ten crore at any time during the immediately preceding accounting year; and*
- (v) which is not a holding or subsidiary company of a company which is not a small and medium-sized company.*

Explanation: A company shall qualify as a Small and Medium Sized Company, if the conditions mentioned therein are satisfied as at the end of the relevant accounting period.

It is to be noted that, in the case of non-compliance by entities such as partnership firms, proprietorships, etc., the ICAI has directed its members to qualify their audit reports in case the accounting standards issued by it have not been followed.

3. Harmonised Criteria for Classification of Entities

Following is the criteria for classification of non-corporate entities as decided by the Institute of Chartered Accountants of India.

A. Level I Entities

Non-corporate entities which fall in any one or more of the following categories, at the end of the relevant accounting period, are classified as Level I entities:

- i) Entities whose equity or debt securities are listed or are in the process of listing on any stock exchange, whether in India or outside India.
- ii) Banks (including co-operative banks), financial institutions or entities carrying on insurance business.
- iii) All commercial, industrial and business reporting entities, whose turnover (excluding other income) exceeds rupees fifty crore in the immediately preceding accounting year.
- iv) All commercial, industrial and business reporting entities having borrowings (including public deposits) in excess of rupees ten crore at any time during the immediately preceding accounting year.
- v) Holding and subsidiary entities of any one of the above.

B. Level II Entities (SMEs)

Non-corporate entities which are not Level I entities but fall in any one or more of the following categories are classified as Level II entities:

- i) All commercial, industrial and business reporting entities, whose turnover (excluding other income) exceeds rupees forty lakhs but

does not exceed rupees fifty crore in the immediately preceding accounting year.

- ii) All commercial, industrial and business reporting entities having borrowings (including public deposits) in excess of rupees one crore but not in excess of rupees ten crore at any time during the immediately preceding accounting year.
- iii) Holding and subsidiary entities of any one of the above.

C. Level III Entities (SMEs)

Non-corporate entities which are not covered under Level I and Level II are considered as Level III entities.

4. Applicability of Accounting Standards to Non-corporate Entities (as on 1.4.2008)

The following accounting standards are applicable to all Non-corporate Entities in their entirety (Level I, Level II and Level III):

- AS 1 Disclosures of Accounting Policies
- AS 2 Valuation of Inventories
- AS 4 Contingencies and Events Occurring After the Balance Sheet Date
- AS 5 Net Profit or Loss for the Period, Prior Period Items and Changes in Accounting Policies
- AS 6 Depreciation Accounting
- AS 7 Construction Contracts (revised 2002)
- AS 9 Revenue Recognition
- AS 10 Accounting for Fixed Assets
- AS 11 The Effects of Changes in Foreign Exchange Rates (revised 2003)
- AS 12 Accounting for Government Grants
- AS 13 Accounting for Investments
- AS 14 Accounting for Amalgamations
- AS 16 Borrowing Costs
- AS 22 Accounting for Taxes on Income
- AS 26 Intangible Assets

Exemptions or Relaxations for Non-corporate Entities falling in Level II and Level III (SMEs)

(A) Accounting Standards not applicable to Non-corporate Entities falling in Level II in their entirety:

AS 3 Cash Flow Statements

AS 17 Segment Reporting

(B) Accounting Standards not applicable to Non-corporate Entities falling in Level III in their entirety:

AS 3 Cash Flow Statements

AS 17 Segment Reporting

AS 18 Related Party Disclosures

AS 24 Discontinuing Operations

(C) Accounting Standards not applicable to all Non-corporate Entities since the relevant Regulators require compliance with them only by certain Level I entities:

AS 21, Consolidated Financial Statements

AS 23, Accounting for Investments in Associates in Consolidated Financial Statements

AS 27, Financial Reporting of Interests in Joint Ventures (to the extent of requirements relating to Consolidated Financial Statements)

(D) Accounting Standards in respect of which relaxations from certain requirements have been given to Non-corporate Entities falling in Level II and Level III (SMEs):

AS 15, Employee Benefits (revised 2005)

AS 19, Leases

AS 20 Earnings per Share

AS 28 Impairment of Assets

AS 29, Provisions, Contingent Liabilities and Contingent Assets

(E) AS 25, Interim Financial Reporting does not require a non-corporate entity to present interim financial report. It is applicable only if a non-corporate entity is required or elects to prepare and present an interim financial report. Only certain Level I non corporate entities are required by

the concerned regulators to present interim financial results, e.g., quarterly financial results required by the SEBI. Therefore, the recognition and measurement requirements contained in this Standard are applicable to those Level I non corporate entities for preparation of interim financial results.

Thus, the VAT auditor has to be aware of the regulatory or statutory framework under which the dealer's accounts are prepared. Further, the VAT auditor should also keep in mind that the financial statements given by the dealer for the VAT audit would comply with the accounting standards. Hence, it is essential that the VAT auditor possesses knowledge about the applicability of the various accounting standards.

5. Disclosure of Accounting Policies

The accounting policies adopted by dealer are very important for the VAT auditor to conduct the VAT audit under the TNVAT Act, 2006. In this regard, the disclosure requirements under AS 1 should be kept in mind while conducting the VAT audit. Some of the aspects that need to taken into account are as follows:

- The accounting policies adopted by the dealer;
- The effect of change of any accounting policy during the year which may have a substantial effect on the financials of the year under audit or in any subsequent year;
- The accounting policies of the dealer should enable the VAT auditor to correctly determine the sales and purchase and the input credits;

The major considerations for selection and application of the accounting policies are:

- Prudence
- Substance over form
- Materiality

If the fundamental accounting assumptions relating to going concern, consistency and accrual are followed in the financial statements, specific disclosure in respect of such assumptions are not required. If the fundamental accounting assumptions are not followed, such a fact should be disclosed.

6. Implication of Non-compliance with Accounting Standards

In case of non-compliance with the accounting standards, the chartered accountant who had carried out the statutory audit would have qualified his audit report or made specific disclosures. In such cases, the VAT auditor should refer to the statutory audit report of the dealer in order to ascertain any specific comment/qualification in the report. The qualifications in the statutory audit may or may not impact the details that are to be certified by the VAT auditor. It has to be noted that the VAT auditor is required to certify the completeness and correctness of the returns filed under the TNVAT Act/CST Act and at the same time, compute the VAT/CST liability to be disclosed in Form WW. Any change in the accounting method or policy could impact the VAT/CST liability.

Chapter 5

Code of Ethics and Other Matters

1. Ethics

Ethics are the rules or standards governing the conduct of a person or the members of a profession. *Morality* can be measured in terms what is right or wrong of an action or a decision, whereas *ethics* are the standards we use or propose for judging such actions or decisions. Thus, accepting an audit conducted hitherto by a co-professional may be moral or immoral according to us but ethics tells us why we call it so and how we made up our minds. It can be said in a nutshell that ethics is sometimes called *moral philosophy*, we use it to criticise, defend, promote, justify and suggest moral concepts and to answer questions of morality, such as:

- How should we treat each other?
- What are *right* and *wrong*?
- How can we know or decide?
- Where do our ethical ideas come from?
- What are rights? Who or what has them?
- Should we coerce one another?
- Can we find an ethical system that applies to everyone?
- What do we mean by duty, justice and other similar concepts?

Shri R. C. Cooper, Past President, in his foreword to the first edition of 'Code of Ethics' published in 1963 wrote:

"Ethics is a State of the mind, and there may be some act which, though it may not strictly fall under one of the items of the Schedule, may be one which may not be proper by any moral or ethical standards. In the larger interests of the institute, the Council exhorts all members to search their hearts and conscience whenever in doubt, and thereby assist towards the maintenance of high principles of professional conduct established by the Council."

He further writes:

"The highest standards of ethical behaviour can only evolve from the conduct of members and the Council feels sure that whenever members are confronted with two interpretations on a matter relating to professional conduct-one ethical and the other legalistic-they would adopt the stricter interpretation than the more liberal one, even though the later may be perfectly legal."

The world has undergone substantial changes since the above views were echoed. Our country too, is no exception. However, one thing which has not changed is the stress on high ethical and moral standards by Chartered Accountants.

Shri Sunil Goyal, Past President, writing foreword for the tenth edition of 'Code of Ethics' in 2005, echoed his feelings in following words:

"The Information Technology revolution and globalization of economy have changed the world for ever and every profession is facing challenges in this era of tough competition. Accountability of any profession is crucial for its survival and prosperity. In formulating the Code of Ethics for the profession, the Institute has always considered the motto "Pride of service in preference to personal gain as a litmus test. User expectation and public perception are crucial criteria while formulating the Code of Ethics so that there should not be any expectation gap between the 'standards expected' and 'those prescribed'."

Ethics is at the core of our profession. It is the high ethical standards set by the profession that has made the profession of accountancy command the respect and confidence of general public.

The International Federation of Accountants (IFAC), in its guidelines on Professional Ethics for the Accountancy Profession, has stated;

"Persons who pursue a vocation in which they offer their knowledge and skills in the service of the affairs of others have responsibilities and obligations to those who rely on their work. An essential pre-requisite for any group of such persons is the acceptance and observance of professional, ethical standards regulating their relationship with clients, employers, employees, fellow members of the group and the public generally."

The Institute through the 'Code of Ethics' (eleventh edition) has laid down certain fundamental principles to be observed by professional accountants and has stated therein as under

*"A distinguishing mark of the accountancy profession is its acceptance of the responsibility to act in the public interest. Therefore, a **professional accountant's** responsibility is not exclusively to satisfy the needs of an individual client or employer. In acting in the public interest a professional accountant should observe and comply with the ethical requirements of this Code."*

The "Code of Ethics" requires the professional accountant to fulfil the following principle namely:

Fundamental Principles and conceptual framework for applying the said principles

(a) *Integrity*

A professional accountant should be straightforward and honest in all professional and business relationships.

(b) *Objectivity*

A professional accountant should not allow bias, conflict of interest or undue influence of others to override professional judgments.

(c) *Professional Competence and Due Care*

A professional accountant has a continuing duty to maintain professional knowledge and skill at the level required to ensure that a client or employer receives competent professional service based on current developments in practice, legislation and techniques. A professional accountant should act diligently and in accordance with applicable technical and professional standards while providing professional services.

(d) *Confidentiality*

A professional accountant should respect the confidentiality of information acquired as a result of professional and employment relationships and should not disclose any such information to third parties without proper and specific authority unless there is a legal or professional right or duty to disclose. Confidential information acquired as a result of professional and employment relationships should not be used for the personal advantage of the professional accountant or third parties.

(e) *Professional Behaviour*

A professional accountant should comply with relevant laws and regulations and should avoid any action that discredits the profession.

2. Conceptual Framework, Threats and Safeguards

The threat may differ from nature of engagements and work assignments and accordingly the safeguards may also differ. Hence, the professional accountant has to identify, evaluate and address threats in relation to compliance with the fundamental principles, rather than merely comply with a set of specific rules which may be arbitrary. The Code of Ethics as issued by the ICAI provides a framework to assist a professional accountant to identify, evaluate and respond to threats to comply with the fundamental principles.

The above fundamental principles may be potentially be influenced by the under mentioned enumerated categories of threats,

- Self Interest Threats
- Self Review Threats
- Advocacy Threats
- Familiarity Threats
- Intimidation Threats

The professional accountant is expected to take safeguards against the above categories of threats and the said safeguards can be grouped into broad categories as stated in the "Code of Ethics" namely

- Safeguards created by the profession, legislation or regulation; and
- Safeguards in the work environment.

Safeguards created by the profession, legislation or regulation include, but are not restricted to:

- Educational, training and experience requirements for entry into the profession.
- Continuing professional development requirements.
- Corporate governance regulations.
- Professional standards.
- Professional or regulatory monitoring and disciplinary procedures.
- External review by a legally empowered third party of the reports, returns, communications or information produced by a professional accountant.

2.1 Ethical Conflict Resolution

In order to comply with the above mentioned fundamental principles, a professional accountant may have to resolve the conflict in application of the said fundamental principles. While doing so the professional accountant is expected to consider the following, either individually or together with others, as part of the resolution process:

- Relevant facts;
- Ethical issues involved;
- Fundamental principles related to the matter in question;
- Established internal procedures; and
- Alternative courses of action.

Wherever the professional accountant is not in a position to resolve the ethical conflict after considering all relevant possibilities, should refuse to remain associated with the matter creating the conflict. The professional accountant, if deemed fit, should withdraw from the engagement or engagement team or specific assignment or resign altogether from the engagement, the firm or the employing organization.

2.2 Integrity

The “Code of Ethics” states that the professional accountant is obliged to be straight forward and honest in the professional endeavours or employment as the case may be, which in turn implies fair dealing, impartial attitude and truthfulness.

A professional accountant is expected not to be associated with the reports, communications or other information, where one believes that the information is materially false or misleading, furnished negligently or omissions or obscure or are of misleading nature.

2.3 Objectivity

The professional accountant is obliged not to compromise the professional duty while carrying out the work, assignment or attestation function or employment, as the case may be, which may be due to relationship bias or undue influence.

2.4 Professional Competence and Due Care

The professional accountant is obliged by the principles of professional competence and due care to maintain professional knowledge and skill to deliver the competent professional service and to act diligently in delivering the same. In order to deliver competent professional service the professional accountant requires continuous awareness and understanding of relevant technical professional and business developments, which in turn has to diligently be delivered in accordance with the assignment, carefully, thoroughly and on a timely basis.

2.5 Confidentiality

The professional accountant is imposed with an obligation to refrain from disclosing to anyone the information acquired as a result of professional assignment or employment without proper and specific authority or the legal or professional right or duty to disclose the same or using the information for personal advantage or advantage of a third party.

2.6 Professional Behaviour

The Professional Accountant should comply with the relevant laws and regulations and should not act in a manner which would bring disrepute to profession.

3. Misconduct

The Chartered Accountants Act, 1949 has made stringent provisions in Chapter V to provide for, regulate and punish any misconduct on the part of Chartered Accountants.

Misconduct is defined under Section 22 of the Chartered Accountants Act, 1949 as follows:

22. Professional Misconduct defined

“For the purposes of this Act, the expression “professional misconduct” shall be deemed to include any act or omission specified in any of the Schedules, but nothing in this section shall be construed to limit or abridge in any way the power conferred or duty cast on the Council under sub-section (1) of Section 21 to inquire into the conduct of any member of the Institute under any other circumstances.”

The First Schedule and Second Schedule to the Chartered Accountants Act, 1949 lays down various do's and don'ts for the Chartered Accountants. Any

violation will be either acted upon through the Disciplinary Committee constituted under Section 17 of the Chartered Accountants Act, 1949 or referred to the High Court with its recommendations.

The punishment may involve (i) reprimand (ii) removal of name from register of members or (iii) such other punishment as may be decided by the Council and/or the High Court.

A VAT auditor is a professional accountant bound by the provisions of the Chartered Accountants Act, 1949. He/She is expected to have high professional and ethical standards and live up to the expectations of the public and the Government. The Government of Tamil Nadu had reposed confidence in the 'Chartered Accountants' and it constitutes our duty to live up to its expectations. Auditors should strive to uphold the objectives of the accountancy profession mentioned in Code of Ethics which are:

- (i) To work to the highest standards of professionalism.
- (ii) To attain the highest level of performance.
- (iii) To meet the public interest requirement.

4. Do's/Don'ts

The First Schedule and the Second Schedule to the Chartered Accountants Act, 1949 lays down a charter of good professional behaviour. Any violation of the said charter will amount to professional misconduct, punishable under the Chartered Accountants Act, 1949. It should however, be remembered that apart from the misconduct specified under First Schedule and Second Schedule, the Council is empowered under Section 22 of the Chartered Accountants Act, 1949 to "inquire into the conduct of any member of the Institute under any other circumstances."

The auditor should familiarize with the provisions of First and Second Schedule and maintain high professional standards expected.

5. VAT Audit

The VAT auditor appointed under the provisions of TNVAT Act, 2006 can be a Chartered Accountant and hence liable for all the professional liabilities under the Chartered Accountants Act, 1949.

The auditor shall be deemed guilty of professional misconduct if the he

- (1) fails to disclose a material fact known to him which is not disclosed in a financial statement, but disclosure of which is necessary to make the financial statement not misleading;
- (2) fails to report a material misstatement known to him to appear in a financial statement, but disclosure of which is necessary to make the financial statement not misleading;
- (3) is grossly negligent in the conduct of his professional duties;
- (4) fails to obtain sufficient information to warrant the expression of an opinion or his exceptions are sufficiently material to negate the expression of an opinion;
- (5) fails to invite attention to any material departure from the generally accepted procedure of audit applicable to the circumstances.

6. Liability of Members as Employee of CA

Attention is invited to notification no. 1-CA (15)60 dated 4th November, 1960 which is reproduced below:

"In exercise of the powers conferred by clause (ii) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, the Council of the Institute of Chartered Accountants of India is pleased to specify, that a member of the Institute, whether in practice or not, who is employed by a Chartered Accountant in practice or by a firm of Chartered Accountants, shall be deemed to be guilty of professional misconduct if he is grossly negligent in the conduct of his duties."

7. Liability of Member as an Employee

Attention is invited to notification no. 1-CA (7)65 dated 6th November, 1965 which is reproduced below:

"In exercise of the powers conferred by clause (ii) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, the Council of the Institute of Chartered Accountants of India specifies that a member of the Institute who is an employee shall be deemed to be guilty of professional misconduct if he is willfully and grossly negligent in the conduct of his duties as such employee."

8. Relying on the work of Qualified Assistants

The primary responsibility for any audit is of the member who has signed the audit report and relevant statements. He is expected to take all reasonable care, caution and diligence in the conduct of the audit and satisfy himself that the work done by his assistants is reasonable and reliable.

However, the qualified assistants are also liable for necessary disciplinary action under the Chartered Accountants Act, 1949 if they are found to be grossly negligent in the performance of their duties.

The VAT auditor who has signed the audit report will be entitled to prove that he has relied on the work of a qualified assistant and he has no reason to believe that he should not have so relied and he has taken due care and diligence in the performance of his duties.

9. Relatives with Substantial Interest

Attention is invited to notification no. 1-CA (44)/71 dated 2nd March, 1971 which is reproduced below:

" In exercise of the powers conferred by clause (ii) of Part II of the Second Schedule to the Chartered Accountants Act, 1949, the Council of the Institute of Chartered Accountant of India specifies that a member of the Institute shall be deemed to be guilty of professional misconduct, if he expresses his opinion on financial statement of any business or enterprise in which one or more persons who are his "relatives" within the meaning of Section 6 of the Companies Act, 1956 have either by themselves or in conjunction with such member a substantial interest unless he discloses the interest also in his report.

Explanation: - *For this purpose the expression "substantial interest" shall have the same meaning as is assigned thereto under Explanation 3 of Section 13 of the Income Tax Act, 1961."*

"Relative" has been defined in "Code of Ethics" as per Section 6 of Companies Act, 1956 read as under:

"A person shall be deemed to be a relative of another if, and only if, -

- (a) they are the members of a Hindu undivided family; or*
- (b) they are husband and wife; or*
- (c) the one is related to the other in the manner indicated in Schedule I-A"*

For convenience of reference, Schedule I-A is reproduced hereunder.

SCHEDULE I-A

List of relatives

1.	Father	12.	Son's Daughter
2.	Mother (including step mother)	13.	Son's Daughter's Husband
3.	Son (including step son)	14.	Daughter's Husband
4.	Son's wife	15.	Daughter's Son
5.	Daughter (including step daughter)	16.	Daughter's Son's Wife
6.	Father's Father	17.	Daughter's Daughter
7.	Father's Mother	18.	Daughter's Daughter's Husband
8.	Mother's Mother	19.	Brother (including step brother)
9.	Mother's Father	20.	Brother's Wife
10.	Son's Son	21.	Sister (including Step Sister)
11.	Son's Son's Wife	22.	Sister's Husband

Explanation 3 of Section 13 of Income-tax Act 1961 reads as under:

"For the purpose of this section, a person shall be deemed to have a substantial interest in a concern,-

- (i) In a case where the concern is a company, if its shares (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits) carrying not less than twenty per cent of the voting power are, at any time during the previous year, owned beneficially by such person or partly by such person or partly by one or more of the other persons referred to in sub-section (3);*
- (ii) In the case of any other concern, if such person is entitled or such person and one or more of the other persons referred to in sub-section (3) are entitled in the aggregate, at any time during the previous year, to not less than twenty per cent of the profits of such concern".*

10. General

Some of the issues, which are commonly raised in regard to different aspects of VAT audit vis-à-vis the liabilities/obligations of VAT auditor, are considered hereunder.

- The liability of the VAT auditor in respect of VAT audit will be the same as in any other audit assignment.
- In case a dealer is found guilty of having concealed his turnover or tax liability, it would not *ipso facto* mean that the VAT auditor is also responsible.
- The Assessing Officer or any other authority who is authorised to issue summons to the dealer and call for evidence or documents, can also summon the VAT auditor who has audited the accounts to give any evidence or produce documents (other than his working papers) on which reliance was placed upon, in finalising and issuing Form WW to the dealer.
- If the actual work relating to the examination of books and records is done by a qualified assistant in a firm of chartered accountants and the partner of the firm signing the audit report has relied upon his work, action, if any, for professional negligence can be initiated against the member who has signed the report and in such an event, it would be open for the member concerned to prove that he has taken due care and diligence in the performance of his duties and is not aware of any reason to believe that he should not have so relied.
- If the qualified assistant (whether or not holding the certificate of practice) is found to be grossly negligent in the performance of his duties, the Institute can take disciplinary action against the qualified assistant.
- A VAT auditor who conducts the audit under the TNVAT Act, 2006 can also accept the assignments of tax representation.
- The VAT auditor cannot charge the professional fees by way of percentage of turnover or percentage of profits. In this context, reference is invited to Clause (10) of Part I of the First Schedule to the Chartered Accountants Act and the commentary on the subject at page nos. 116 - 117 of the Code of Ethics (2003 Reprint of Ninth Edition). Certain exceptions are made in Regulation 192, but these exceptions do not apply in respect of charging fees for VAT audit.

- Under reporting requirements of Form WW, the VAT auditor is expected to advise the dealer to file a revised return for a particular period and pay any difference in tax liability or claim additional refund. Therefore, the VAT auditor virtually steps into the shoes of the assessing authority. While conducting VAT audits, figures declared by the dealer are duly verified by the VAT auditor, the tax authorities are expected to accept the figures certified by the VAT auditor.
- The opinion expressed by the VAT auditor is not binding on the dealer. If the VAT auditor has qualified his report and expressed an opinion on a particular item, the dealer may take a different view and may not take steps on the advice given by the VAT auditor.
- In case a member is a director or employee of a company, the financial statements of which are to be audited and/or opinion has to be expressed, he should not undertake an audit of that company. This applies to the VAT audit also.
- Holding of substantial interest by a partner or a relative of the member in the business or enterprise of which an audit has to be carried out and opinion has to be given on the financial statements, may affect the independence of the member, in the performance of his professional duties. Therefore, a member may, not to compromise his independence, desist from undertaking the VAT audit of such business or enterprise.

Chapter 6

Relevant Statutory Provisions

The relevant statutory provisions relating to accounts and audit under the TNVAT Act, 2006 are as follows:

I. Definitions

1. **Section 2(9) - Branded** means any goods sold under a name or trade mark registered or pending registration or pending registration of transfer under the Trade & Merchandise Marks Act, 1958 (Central Act 43 of 1958) or the Trade Marks Act, 1999 (Central Act 47 of 1958).

The definition states that pending registration of a name or trade mark and pending registration of transfer is also to be considered as "branded".

2. **Section 2(11) - Capital goods** means

- (a) Plant machinery, equipment, apparatus, tools, appliances or electrical installation for producing, making, extracting or processing of any goods or for extracting or for bringing about any substance for the manufacture of final products;
- (b) Pollution control, quality control, laboratory and cold storage equipments
- (c) Components, Spare parts and accessories specified at (a) and (b) above;
- (d) Moulds, dies, jigs and fixtures;
- (e) Refractors, and refractory materials;
- (f) Storage tanks, and
- (g) Tubes, pipes and fittings thereof;

used in the State for the purpose of manufacture, processing, packing or storing of any goods in the course of business excluding civil structures and such goods as may be notified by the Government.

From the above definition, it is clear that the machinery, etc. enumerated above, used in this State of Tamil Nadu, up to the stage of manufacture, etc. is to be considered as "capital goods".

Section 19 & Rule 10 speaks about the eligibility of input tax credit and the related procedural compliances involved in respect of claim of input tax credit its availment and reversals, if any.

3. **Section 2(20) - Exempted goods** means goods falling under the Fourth Schedule and goods exempted by the Government, by notification from time to time.

Fourth Schedule contains two parts viz., Part A and Part B. Various notifications were issued subsequent to the introduction of VAT law.

The details and the text of the Notifications can be accessed from the website of the Department which is <http://tnvat.gov.in>

The above mentioned website of the department can also be accessed for the clarifications, notifications, circulars and rate of tax and commodity code applicable to the goods, TIN search, etc.

4. **Section 2(23) - Input** means any goods including capital goods purchased by a dealer in the course of his business;

5. **Section 2(24) - Input tax** means the tax paid or payable under this Act by a registered dealer to another registered dealer on the purchase of goods including capital goods in the course of his business.

As per the above, the input tax is based on the tax paid or payable on the purchases. For input tax credit claim, its availment and for reversal, etc. please refer Section 19.

6. **Section 2(27) - Manufacture** with its grammatical variations and cognate expressions, means producing, making, extracting, altering, ornamenting, finishing, assembling or otherwise processing, treating or adapting any goods and includes any process of goods which brings into existence a commercially different and distinct commodity but does not include any activity as may be notified by the Government.

Till 31st October 2012, no activity has been notified by the Government in this regard.

7. **Section 2(28) - Output Tax** means tax paid or payable under this Act by any dealer in respect of sale of any goods.

8. **Section 2(29) - Place of business** means any place in the State where a dealer purchases or sells goods and includes –

- (i) a warehouse, godown or other place where a dealer stores his goods;

- (ii) a place where the dealer processes, produces or manufactures goods; and
- (iii) a place where the dealer keeps his accounts, registers and documents.

When the goods are sent to a site(s) of a works contractor such site(s) may also be considered as place of business.

9. Section 2(32) - Reversal of Tax Credit means reversal of input tax credit already claimed and availed under this Act.

Section 19 lists out the various situations in respect of which the reversal of input tax already claimed, has to be carried out and such reversal is to be reported in the Annexure III of the monthly returns to Form I.

10. Section 2(36) - Tax Invoice means an invoice issued by a registered dealer who sells taxable goods to another registered dealer in the State showing the tax charged separately and containing such details as may be prescribed.

11. Section 2(38) - Taxable Turnover means the turnover on which a dealer shall be liable to pay tax as determined after making such deductions from his total turnover and in such manner as may be prescribed.

12. Section 2(40) - Total turnover means the aggregate turnover in all goods of a dealer at all places of business in the State, whether or not, the whole or any portion of such turnover is liable to tax.

13. Section 2(41) - Turnover means the aggregate amount for which goods are bought or sold, or delivered or supplied or otherwise disposed of in any of the ways referred to in clause (33), by a dealer either directly or through another, on his own account or on account of others whether for cash or for deferred payment or other valuable consideration, provided that the proceeds of the sale by a person of agricultural or horticultural produce, other than tea and rubber (natural rubber latex and all varieties and grades of raw rubber) grown within the State by himself or on any land in which he has an interest whether as owner, usufructuary mortgagee, tenant or otherwise, shall be excluded from his turnover.

Explanation I.- "Agricultural or horticultural produce" shall not include such produce as has been subjected to any physical, chemical or other process for being made fit for consumption, save mere cleaning, grading, sorting or drying;

Explanation II.- Subject to such conditions and restrictions, if any, as may be prescribed in this behalf—

- (i) the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of, or before the delivery thereof;
- (ii) any cash or other discount on the price allowed in respect of any sale and any amount refunded in respect of articles returned by customers shall not be included in the turnover;

Explanation III.- Any amount realised by a dealer by way of sale of his business as a whole, shall not be included in the turnover;

Explanation IV. - Any amount, charged by a dealer by way of tax separately without including the same in the price of the goods sold, shall not be included in the turnover;

14. Section 2(44) - Zero rate sales 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.

For the refund of tax paid on purchases relating to export sales, the prescribed Form W is to be filed within 180 days of making zero rated sales along with related documents. The related rules are stipulated in Rule 11(2). The details of zero rate sales are to be reported in the Annexure IV of the monthly returns in Form I.

II. Schedules and Rates of tax

There are seven schedules to the Act which are:

S. No.	Schedule	Tax rate
1	I-A	1%
	I-B	5%
	I-C	14.5%
2	II	Non VAT Goods - Various rates
3	III	Compounding system of tax applicable to Hotels
4	IV A	Exempted goods
	IV B	Exempted goods
5	V	Zero Rate Sales to International Organisations
6	VI	Transit Pass
7	VII	Compounding rates to Brick Kiln

First Schedule has three parts viz., Part A, Part B and Part C

- Part A – Goods taxable @ 1% - includes bullion, precious stones, gold, platinum and silver jewellery including articles thereof.
- Part B – Goods taxable @ 5% - lists out inputs, capital goods, drugs, chemicals, packing materials, information technology products, pollution control equipments, etc.
- Part C – Goods taxable @ 14.5% - mentions all goods not specified in Part A or Part B of the first schedule or any of the other schedules.

Dealers selling the goods covered under Part B and Part C will be entitled to input tax credit as per the charging section. Part A goods (jewellery, precious metals and stones, etc) are covered specifically under Section 9 of the Act. Input tax credit is claimable as per that Section 9 in respect of Part A goods.

Second Schedule covers goods like liquor, petroleum products, sugarcane etc., on which special rates of tax are applicable at the point of sale or purchase specified in the schedule. These goods are not eligible for VAT input credit, vide Section 3(5). In effect, the levy of sales tax continues on these goods even now.

Third Schedule specifies compounded rate of tax payable by hotels, restaurants and sweet stalls, where the total turnover does not exceed Rs. 50 lakhs. Total turnover means the aggregate of sales turnover and purchases turnover assessable to tax, vide Section 8.

Fourth Schedule specifies list of tax exempted goods, vide Section 15, and it contains two parts viz., Part A and Part B.

Fifth Schedule specifies the list of International Organisations, sales to whom will be "zero-rated" – on sale to which output tax is at zero percent but input tax credit will be allowed or refunded vide Section 18 and Rule 11 – The said list includes WHO, World Bank, ILO, and a few UN organizations, etc.

Sixth Schedule lists out the goods in respect of which "transit pass" provisions are applicable. Some of the goods listed includes raw rubber, liquor, plastic granules, washing machines, air conditioners, etc., when such listed goods enter and pass through the State of Tamil Nadu to another State or commences its movement from this State of Tamil Nadu, transit pass is to be obtained and surrendered. The transit pass obtained at the first check post after entering the frontiers of this State or from the Assessing officer or generated electronically, has to be surrendered by the goods carrier before leaving the last check post of this State within the stipulated time vide Section 70, Rule 15(17).

Seventh Schedule specifies compounded rate of tax payable on an option exercised in this regard by brick kilns operators having various manufacturing capacities instead of paying tax on their sale, vide Section 6.

III. Relevant Sections & Rules

1. Section 3, Rule 4 & 5 - Threshold limit of Turnover for Registration

- A dealer who purchases goods within Tamil Nadu and sells goods within Tamil Nadu whose total turnover in a year is not less than Rs. 10 Lakhs is required to register.

Relevant Statutory Provisions

- Other than the above, every dealer with a total turnover of Rs. 5 Lakhs and above in a year has to apply for registration.
- Casual dealer, jewellery dealer, dealer availing concession under CST (concessional rate against declaration forms) do not have any threshold limit. They should register from the first transaction.
- Any other dealer/person intending to commence business may get himself registered voluntarily even though his total turnover may be below the threshold limit.
- The following table gives list of items that are to be included and excluded to reckon "turnover".

Turnover relating to	To be included	to be excluded
Works contract, leasing or hire purchase and other taxable transactions	Yes	--
Sale of agricultural products from own or leased farm	--	Yes
Sale of business as a whole	--	Yes
Purchases from unregistered dealer, etc. liable to pay tax u/s 12	Yes	--

Registration

TIN number can be obtained online by logging on to website of the department or by applying to the registering authority having jurisdiction by submitting the application Form A with enclosures and two photographs of the person verifying the application along with registration fee of Rs. 500/- and Rs. 50/- for each additional place(s) of business.

Certificate of registration in Form D is to be issued by registering authority within 30 days from the date of receipt of the application.

Registered dealers opening new or additional branch(es) will have to apply to the registering authority within 30 days of the date of opening with Rs. 50/- as registration fees.

Every registered dealer will be required to exhibit a name board in Tamil at the registered place of business with full address and the fact that the business is registered under TNVAT Act, 2006. In case other languages are to be used in the name board they shall be in the following order:

1. Tamil

2. English
3. Any other language(s)

Certificate of registration is to be conspicuously displayed in the principal place of business and also at the additional places of business and godowns.

A certificate of registration under TNVAT Act, 2006 once issued is permanent and there is no requirement of annual renewal.

When there is a change in the constitution the same is to be intimated to the department within 30 days from change and in this case a new registration is to be made, if the status of the entity undergoes change.

If there is no change in the constitution only the intimation is to be made within 30 days from the date of change. No fresh registration is required.

e.g, A firm 'ABCD' is having four partners namely A, B, C and D. If C and D retire at the same time, no registration is required. If B, C and D retire, then the firm becomes a proprietary concern. Therefore, a new registration has to be obtained.

Compulsory Registration

The registration is compulsory for the following types of dealers, irrespective of their turnover

- A dealer residing outside the State and carrying on business in Tamil Nadu
- An agent of a non resident dealer carrying on business inside Tamil Nadu
- A dealer who obtains/brings goods from outside Tamil Nadu
- A dealer registered under the CST Act, 1956
- An exporter
- A commission agent, del credere agent, mercantile agent, broker
- An auctioneer
- A dealer in jewellery, bullion, etc.
- A casual trader to register within 24 hours of commencing transaction
- A successor to a registered dealer either
 - as a legal heir on the death of the dealer or

- as a successor on account of change in ownership/acquisition of business (apply for registration within 30 days of succession, unless he already holds a certificate of registration)
- Where a minor commences/inherits a business, the guardian, trustee or agent of such minor (apply for fresh registration within 30 days of inheritance, etc.)

2. Section 5, Section 6 and Rule 8 - Works Contract

Following methods of tax payments are available to discharge works contract tax:

1. Goods Identification Method - Section 5
2. Percentage Deduction Method - Rule 8(5)
3. Composition Scheme - Section 6

The details about each of the methods are narrated below:

Goods Identification Method - Section 5

Pay tax on goods identification basis and avail input credit. Tax is on the deemed sale value of goods is to be paid at rates specified in the Schedule to the Act. Deemed sale value is arrived on the landed cost of the goods at the site and reasonable profit involved. Conversion charges are also added, if the goods are used in some other form than the one purchased. The output tax can be collected from the buyer (contractee).

Illustration:

Contract price	60000/-	Transport Charges	3000/-
5% VAT goods purchased	20000/-	Conversion Charges	5000/-
14.5% VAT goods purchased	10000/-	Estimated profit	15%

The deemed sale value is worked out as below, when there is conversion and when there is no conversion, of goods purchased.

When the goods purchased are used as such

Particulars	Value	VAT	Transport Charges	Landed Cost	Estimated Profit at 10%	Deemed Sale Value	Output VAT
(1)	(2)	(3)	(4)	(5)= (2)+(4)	(6)	(7)= (5)+(6)	(7) * VAT rate
5% goods	20000	1000	1000	21000	2100	23100	1155
14.5% goods	10000	1450	1000	11000	1100	12100	1755
Total	30000	2450	2000	32000	3200	35200	2910
Less: Input Tax Credit							2450
VAT payable							460

Total cost of goods involved Rs 32,000/-

When the goods purchased are converted before putting them into use at the site place, the conversion charges incurred is also to be added to the total cost and then the deemed sale value is to be arrived at by adding the element of profit. Then the net VAT due and payable is worked out.

Considering above data,

Particulars	Landed cost as above	Conversion Charges	Total	Profit @10%	Deemed Sale value	Output VAT
(1)	(2)	(3)	(4)= (2)+(3)	(5)	(6)= (4)+(5)	(7)= (6)*Rate of VAT
5% goods	21000	4000	25000	2500	27500	1375
14.5% goods	11000	4000	15000	1500	16500	2393
Total	32000	8000	40000	4000	44000	3768
Less: Input Tax Credit						2450
VAT payable						1318

Total cost of goods involved Rs 40,000/-.

Percentage Deduction Method - Rule 8(5)

When the labour and other like charges are not available separately and the same is not ascertainable from the books and records maintained by the dealer, it has to be calculated at the following rates on contract price, vide Rule 8(5).

Type of Contract	% of Contract Price
Electrical contracts	15%
All structural contracts	15%
Sanitary contracts	25%
Watch and clock repair contracts	50%
Dyeing contracts	50%
All other contracts	30%

By deducting the above from the contract price, the deemed sale value of goods involved is arrived at and tax is payable at 14.5% when the goods involved are taxable at various rates and at 5% (or 1%) only when all the goods involved are taxable at 5% (or 1%) only.

Composition Scheme - Section 6

- Tax is payable at @ 2% on civil works contract receipts or @ 5% on non civil works contract receipts by exercising an option in writing to pay tax under this method.
- VAT is payable on the total contract value.
- 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.
- Dealers having exercised this option are not entitled to input tax credit.
- No input tax credit to contractee.
- The contractor shall not collect any tax on his work contract receipts.
- Dealer paying tax under this compounding method should not make interstate purchases or imports from foreign countries.

- Whether goods received into this State of Tamil Nadu by stock transfer or consignment transfer can be used or not by a works contractor paying tax under the composition scheme is not known and the Act is silent about this.
- Dealer opting to pay tax under this compounding system of tax payment has to maintain a register with details of contracts and payments received.
- No other account needs to be maintained by him.
- The restriction of inter-State purchases or imports is applicable to capital goods also or not is not specifically stated in the Act.
- If at the end of the year the dealer decides to shift from composition method of tax payment to regular method as per Section 5 of the Act, then there is no need to file any option letter and the purchases effected from the commencement of the next financial year is eligible for input tax credit and for the stock on hand at the end of the year, there is no input tax credit since there are no specific provisions in this regard for this.

Responsibility to deduct tax (TDS)

The persons responsible for paying any sum to any dealer for execution of works contract shall, at the time of payment of such sum, deduct an amount calculated, at the following rate, namely:-

Civil works contracts	2% of the total contract value of the civil works executed.
Civil maintenance works	2% of the total contract value of the maintenance works executed.
All other works	5% of the total contract value of the works executed.

The term "person" includes:

- (i) the Central or a State Government;
- (ii) a local authority;
- (iii) a corporation or body established by or under a Central or State Act;
- (iv) a company incorporated under the Companies Act, 1956 including a Central or State Government undertaking;
- (v) a society including a co-operative society;

- (vi) an educational institution; or
- (vii) a trust;

Duties of person liable to deduct tax: Rule 9

- Tax deducted has to be remitted before 20th of the succeeding month to such authority in the prescribed manner.
- Form R has to be submitted to the assessing authority at the time of remittance of the amount deducted.
- Any person who makes the deduction, must issue to the works contractor, a certificate in Form T for each deduction separately within fifteen days of remitting the tax. He must send a copy of the certificate of deduction to the assessing authority, having jurisdiction over the said dealer together with such documents, as may be prescribed.
- In case of non-deduction of tax or non-remittance of tax deducted as prescribed, the amount can be recovered by the authorities from the person responsible to deduct with penalty and interest as if such person is an assessee under the Act.
- Interest is payable at 1.25% per month for the entire period of default.

No tax deduction is required in the following cases:

- If there is no transfer of property in goods.
- The dealer has to produce a certificate in Form S that he has no liability to pay the tax u/s 5.
- Where the amount or the aggregate of the amount paid or credited or likely to be paid during the year by such person to the dealer for execution of the works contract including civil works contract does not or is not likely to exceed Rs. 1 Lakh.

FORMS	
Form R	Statement to be furnished at the remittance of tax deducted
Form S	Certificate of NIL tax liability based on which tax may not be deducted
Form T	Tax deduction certificate to be issued by deductor to deductee

3. Section 11: Levy of Tax on Sugar Cane

(1) Every dealer shall pay a tax on the last purchase of sugarcane, excluding sugarcane setts, (Stem cuttings of sugar cane is called sugar cane setts or seed pieces) in the State, at the rate specified in the Second Schedule.

(2) The manufacturer of sugar shall not be entitled to input tax credit on the last purchase of sugarcane.

4. Section 12: Levy of Purchase Tax

(1) Subject to the provisions of sub-section (1) of section 3, every dealer, who in the course of his business purchases from a registered dealer or from any other person, any goods (the sale or purchase of which is liable to tax under this Act), in circumstances in which no tax is payable by that registered dealer on the sale price of such goods under this Act, and either -

- (a) consumes or uses such goods in or for the manufacture of other goods for sale or otherwise; or
- (b) disposes of such goods in any manner other than by way of sale in the State; or
- (c) despatches or carries them to a place outside the State except as a direct result of sale or purchase in the course of inter-State trade or commerce or in the course of export out of the territory of India; or
- (d) installs and uses such goods in the factory for the manufacture of any goods, shall pay tax on the turnover relating to the purchase aforesaid at the rate specified in the Schedules to this Act.

(2) Notwithstanding anything contained in clause (24) of section 2, the dealer who pays tax under sub-section (1) shall be entitled to input tax credit on the goods specified in the First.

5. Section 19: Input Tax Credit

A registered dealer in Tami Nadu shall be entitled to avail credit of the VAT charged in the invoice, on the purchase of First Schedule goods from another registered dealer in Tamil Nadu. Purchase tax paid on first schedule goods is also eligible for VAT credit claim. Tax credit is claimable in respect of goods including capital goods and its spares, components, etc.

Input tax credit can be availed in respect of sales, taxable lease transactions and works contract transactions, if tax is not paid or payable under the composition scheme.

Input credit cannot be availed on purchase of second schedule goods such as liquor, motor spirit (petrol), high speed diesel oil (diesel), imported sugar and textile products, molasses and sugarcane.

Input credit cannot be availed on purchase of industrial inputs for use in manufacture or in connection with manufacture of second schedule goods and/or tax exempted goods.

Input Tax Credit Claim: Section 19(2)

Input Tax Credit shall be allowed for purchase of goods within the State from a registered dealer and which are for the purpose of:

- (i) re-sale by him within the State; or
- (ii) use as input in manufacturing or processing of goods in the State; or
- (iii) use as containers, labels and other materials for packing of goods in the State; or
- (iv) use as capital goods in the manufacture of taxable goods.
- (v) sale in the course of inter-State trade or commerce falling under sub-section (1) of section 8 of the Central Sales Tax Act, 1956.
- (vi) agency transactions by the principal within the State in the manner as may be.

Input tax credit is not eligible in respect of following: Section 19(5)

- Purchase of automobiles by persons other than a dealer in automobiles.
- Purchase of air-conditioners by persons other than a dealer in air-conditioners.
- Stock transfers into the State.
- Inter-State sale without C Form.
- Inter-State purchases (tax paid in other States).
- Capital Goods used for manufacture of tax exempted goods – Section 19(6).

- If stock transfer or consignment of goods is effected to a place situated outside the State input tax credit is not available to the extent of 3%.
- Tax paid under composition scheme – Proviso to Section 3(4), etc.
- Invoice issued by a “bill trader”.
- Invoice which is not original or “tax invoice”.

Section 19(11) : In case any registered dealer fails to claim input tax credit in respect of any transaction of taxable purchase in any month, he shall make the claim before the end of the financial year or before ninety days from the date of purchase, whichever is later.

The input credit claim is subject to receiving an original tax invoice duly filled, signed and issued by a registered dealer from whom the goods are purchased.

When to avail credit in respect of Capital Goods - Section 19(3)

- Input tax credit can be availed only after the commencement of commercial production (commencement of commercial use of such capital goods).
- 50% of the credit can be availed in the first financial year of commencement of commercial production. The balance can be availed at any time before the third financial year of commercial production as shown below:

Particulars	Eligible input tax credit claim relating to capital goods
First financial year	Maximum of 50% of input tax credit
Second or third year	Balance of input tax credit

- It is, however, necessary that the capital goods are available when any part of the credit is availed.
- After the said three years, the unavailed input credit, if any, shall lapse in favour of the Government.
- In case of parts and components of existing capital goods, however, the input tax credit can be availed wholly in the month of purchase itself.
- The credit at 50% in the first year for capital goods or wholly for parts, etc., as stated above, can be claimed at any time before the

end of the financial year or ninety days from the date of purchase, whichever is later.

Conditions for claiming Input Tax Credit on Capital Goods - Section 19

Capital Goods (CG) have been included as item in the First Schedule of the Act vide Section 2(11).

CG are eligible for input tax credit as per the conditions listed below:

- Purchased CG is for use in the business of taxable goods
 - ❖ The use of CG should be within the State.
 - ❖ The CG should be for the purpose of manufacture, processing, packing, storing of goods in the course of business.
- The CG should not be used for the negative list of manufacture/activity notified by the Government notifications issued in this regard till 31st October 2012.
- Where purchase tax is paid on the purchase of CG, it is also eligible for CG credit.
- The date of commencement of production using the relevant CG shall be intimated to the assessing officer within 30 days of such date. No format is prescribed in the Act or the Rules for such intimation and hence filing an appropriate written communication in this regard may be considered as sufficient.
- The CG should be in the possession of the dealer during the period of claiming and availing input tax credit. If the goods are not available during such time, the input tax credit involved (entire input tax credit claimed/availed relating to CG) would lapse.

6. Rule 6(3)(b) - Certificate for Purchase of Industrial Inputs

- The purchaser of industrial input shall issue a certificate to the seller comprising 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. Such a certificate may be relied on by the seller at the time of his assessment/audit or any inspection by authorized officers. If the certificate prescribed is not available, the beneficial rate of tax at 5% may not be applicable.
- As per the GO.Ms.No.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.

7. Section 18 - Zero Rated Sales

(1) The following shall be zero rate sale for the purpose of this Act, and shall be eligible for input tax credit or refund of the amount of the tax paid on the purchase of goods specified in the First Schedule including capital goods, by a registered dealer in the State, subject to such restrictions and conditions as may be prescribed:-

- (i) A sale as specified under sub-section (1) or (3) of section 5 of the Central Sales Tax Act, 1956;
- (ii) Sale of goods to any registered dealer located in Special Economic Zone in the State, if such registered dealer has been authorised to establish such units by the authority specified by the Central Government in this behalf; and
- (iii) Sale of goods to International Organisations listed out in the Fifth Schedule.

(2) The dealer, who makes zero rate sale, shall be entitled to refund of input tax paid or payable by him on purchase of those goods, which are exported as such or consumed or used in the manufacture of other goods that are exported as specified in sub-section (1), subject to such restrictions and conditions as may be prescribed.

(3) Where the dealer has not adjusted the input tax credit or has not made a claim for refund within a period of one hundred and eighty days from the date of accrual of such input tax credit, such credit shall lapse to Government.

8. Section 14 – Reversal of Tax Credit

(1) Where a purchasing dealer has returned the goods to the seller for any reason, the input tax credit claimed already on the purchase by the

dealer shall be liable to reversal of tax credit on such goods returned, in the manner as may be prescribed.

(2) Where a selling dealer has received back the goods as a result of sales return or unfructified sale, the output tax paid or payable thereon will be reduced, adjusted or refunded in the manner as may be prescribed.

The various situations for input tax credit reversals or adjustment of output tax are:

- If the goods purchased are used for making civil structure - Section 2(11).
- Purchase of automobiles, spare parts and accessories other than by a dealer in automobiles – Section 19(7)(b).
- Purchase of air conditioners other than by a dealer in air conditioners - Section 19(7)(c).
- Goods purchased for sale issued as free of cost, eg. samples – Section 19(8).
- Goods are stolen, lost or destroyed, due to natural calamity, fire etc., or while in storage or in transit - Section 19(9).
- Unavailed credit on capital goods (time barred) - Section 19(3)(b), Rule 10(4)(b).
- Purchase returns.
- Sale of exempted goods - IV Schedule - Section 15 [Section 19(5)(a)].
- Input tax credit availed and not sold at the time of stoppage of business – Section 19(19).
- Stock transfer/consignment transfer (4/3%) – Section 19(4).
- Consignment Sales without 'F' Form - Section 19(4).
- Stock transfer without 'F' Form - Section 19(4).
- Purchases for production of exempted goods (Finished) - Section 19(5)(a).
- Inter-State sale without 'C' Form - Section 19(5)(c).
- Input tax credit availed for finished goods subsequently exempt - Section 19(12).
- Price variations.

- Input (goods) destroyed in fire or during process/manufacturing - Section 19(9).
- Capital goods used for manufacturing of exempted goods - Rule 10(4)(d).
- Goods purchased for business activity, but subsequently used for personal use or other activity not in the course of business - Section 19(7)(a).
- Bogus purchases (bill traders) - Section 19(13).
- Supplier's registration cancelled – Section 19(15).
- Transfer/sale of business not as a whole - Section 19(14).
- Input tax credit not claimed in time (within financial year or 90 days of purchase) - Section 19(11).
- Tax invoice lost/misplaced and carbon copy not given in time.
- Tax invoice lost/misplaced and if AO rejects claim.
- Input tax credit on capital goods claimed but capital goods sold within 3 years - Section 19(4)(b)
- Arithmetic calculations and wrong workings and claims.
- When business is stopped or closed, the input credit availed to the extent that it pertains to goods remaining unsold shall be reversed on the date of such stoppage/closure.

The reversals for each of the above may be prepared in the following tabular manner:

Annexure III to Monthly Returns in Form I

Details for reversal of Input tax credit during the month

S. No.	Nature of transactions	Section/ Rule	Commodity Code	Value (Rs.)	Rate of tax	TIN	Reversal of Input tax Credit (Rs.)
			(1)	(2)	(3)	(4)	(5)
1	Goods used for civil structures	Sec.2(11)					
2	Goods utilised for self use	Sec.19(7)(a)					
3	Purchase of automobiles and spare parts other than dealer in automobiles	Sec.19(7)(b)					
4	Purchase of air conditioners other than dealer in air conditioners	Sec.19(7)(c)					
5	Goods given as gift, free sample	Sec.19(8)					
6	Goods lost on theft, loss etc.,	Sec.19(9)(i)					
7	Inputs destroyed in fire or lost	Sec.19(9)(ii)					
8	Inputs damaged in transit or destroyed before manufacture	Sec.19(9)(iii)					

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9	Unavailed credit on capital goods (time barred)	Sec. 19(3)(b)					
10	Consignment Sales without 'F' Form	Sec. 19(4)(i) & (ii)					
11	Stock transfer without 'F' Form	Sec. 19(4)(i) & (ii)					
12	Purchases for production of exempted goods (Finished)	Sec 19(5)(a)					
13	Inter-State sale without 'C' Form	Sec. 19(5)(c)					
14	Purchase return	Sec. 14(i)					
15	Input tax credit availed for Finished goods subsequently exempt	Sec. 19(12)					
16	Others (specify)						
Total							

Input Tax Credit and Common Inputs

- Inputs directly identifiable and relating to sale of taxable goods shall be eligible for input tax credit in full, subject to other conditions as applicable.
- Inputs directly identifiable and relating to sale of exempted goods shall not be eligible for input tax credit.
- Inputs common to both taxable and exempted goods which cannot be identified separately, the input tax credit reasonably attributable

to that portion of exempted sales has to be arrived at by apportionment, based on acceptable workings, has to be reversed.

In TNVAT Act, 2006, no specific formula has been prescribed for the apportionment.

The method of formula or any basis adopted by the dealer for each of the above reversals or for the common inputs should be consistent between the various months of an year and from year to year. If there is any change in the method or the basis of the input tax credit reversal workings compared to the earlier month/year the same needs to be reported with the impact of the VAT reversal quantum involved.

Illustration

Where a dealer has taxable sales, sales of exempt goods and stock transfer of taxable goods, the eligible input tax credit or reversal of the same may be computed as below:

M/s. Tendulkar Ltd. (TL) is engaged in manufacture of taxable and exempted goods using common inputs. The dealer effects stock transfer of taxable goods to other States besides making sales of both taxable and exempt goods. The eligible input tax for a tax period is illustrated below:

Since TL is using common inputs for sales of taxable goods, sales of exempted goods and for exempt transactions, the eligible input tax credit for each tax rate should be computed by applying the formula $A \times B/C$, where;

- A = Input tax paid for each tax rate
- B = Taxable turnover
- C = Total turnover (Taxable turnover + Sales of exempt goods + Value of stock transfer)

Vat	Purchases	Input tax	Sales	Output tax
5%	4,00,000	20,000	4,50,000	25,000
14.5%	2,00,000	29,000	3,00,000	37,500
Exempted	NIL	NIL	1,50,000	NIL
Stock Transfer	NIL	NIL	1,00,000	NIL
TOTAL	6,00,000	49,000	10,00,000	62,500

<i>INPUT TAX CREDIT REVERSAL EXEMPTED SALES:</i>	
<i>49000/1000000*150000</i>	= 7350 1
<i>INPUT TAX CREDIT REVERSAL STOCK TRANSFER</i>	
<i>5% GOODS: Rs 20000/1000000*100000</i>	= 2000
<i>STOCK TRANSFER REVERSAL IS 3% = 2000/5%*3%</i>	= 1200 2
<i>14.5% GOODS: Rs 2,00,000 INPUT TAX CREDIT 3%</i>	
<i>PORTION 200000*3%</i>	= 6000
<i>INPUT TAX CREDIT 11.5% PORTION 200000*11.5%</i>	= 23000
<i>PROPORTIONATE REVERSAL OF 3% 6000*100000/1000000</i>	= 600 3
<i>Total reversal 7,350 + 1200 + 600</i>	= 9150
<i>TOTAL VAT PAYABLE: 62500 - (49000-9150)</i>	= 22650

9. Section 19(14) - Merger, Acquisition

Where the business of a registered dealer is transferred on account of change in ownership or on account of sale, merger, amalgamation, lease or transfer of the business to a joint venture with the specific provision for transfer of liabilities of such business, then, the registered dealer shall be entitled to transfer the input tax credit lying unutilized in his accounts to such sold, merged, amalgamated, leased or transferred concern. The transfer of input tax credit shall be allowed only if the stock of inputs, as such, or in process, or the capital goods is also transferred to the new ownership on which credit has been availed of are duly accounted for, subject to the satisfaction of the assessing authority.

10. Section 29 - Price Variation

- (a) if a dealer receives in any year any amount due to price variations, which would have been included in his turnover for any previous year if it had been received by him in that year, he shall, within thirty days from the end of the year in which such amount is received, submit a return in the prescribed form to the assessing authority and thereupon the assessing authority shall proceed to assess the tax payable on such amount.
- (b) if a dealer returns in any year any amount due to price variations, which would have been excluded in his turnover for any previous year if it had been returned by him in that year, he shall, within thirty days from the end of the year in which such amount is returned, submit a return in the prescribed form to the assessing authority and

thereupon the assessing authority shall proceed to arrive at the quantum of the tax refundable on the amount returned by the dealer;

For example, sale of empty cooking gas cylinders were effected to public sector petroleum companies during the financial year 2007-08 and difference in consideration received later with the following details:

S.No.	Particulars	Price
1	Provisional sale price per cylinder agreed in the year 2007-08	250/-plus VAT/CST
2	Final price decided in July 2012	277/-
3.	Differential amount received in October 2012	27/-

The dealer has to report about the receipt of the receipt of Rs 27/- per cylinder on or before 30 days from the end of the year 2012-13.

11. Rule 10(5) - Where the original invoice is lost, the input tax credit can be claimed only if the following conditions are fulfilled.

Every claim made under clause (b) of sub-section (10) of section 19 shall be presented before the assessing authority within thirty days from the date on which the original tax invoice is lost. It shall be accompanied by a duplicate or carbon copy of the original invoice. The assessing authority shall verify such claim and pass orders allowing input tax credit on the basis of duplicate or carbon copy of the original invoice or its rejection. When the claim is rejected, the assessing authority shall record his reasons for doing so and communicate to the dealer.

Provided that no order prejudicial to the dealer shall be passed unless the said dealer is given an opportunity of being heard.

12. Section 42(5), Rule 11: Refunds

Section 42(5): Where the tax paid under this Act is found to be in excess on assessment or revision of assessment, or as a result of an order passed in appeal, revision or review, the excess amount shall be refunded to the dealer after adjustment of arrears of tax, if any, due from him. Where the excess amount is not refunded to the dealer within a period of ninety days from the date of the order of assessment or revision of assessment and in the case of order passed in appeal, revision or review within a period of ninety days from the date of order giving effect to such order passed in appeal, revision or review, the Government shall pay by way of interest, where the amount

refundable is not less than one hundred rupees, a sum equal to a sum calculated at the rate of half per cent or part thereof of such amount for each month or part thereof after the expiry of the said period of ninety days.

Explanation.—For the purpose of this section, the expression “order passed in appeal, revision or review” shall not include order passed in such appeal, revision or review with direction to make fresh assessment order.

Rule 11: (1) The assessing authority shall issue refund of amount specified in Form P within ninety days from the date of service of the said Form, failing which the assessing authority shall also pay the interest at the rate prescribed under the Act along with such refund amount.

(2) The dealer who claims refund due to sale effected by him under sub-section (1) of section 18 shall file an application in Form W to the assessing authority along with copies of invoices or bills of related purchases within one hundred and eighty days from the date of accrual of such claim. The assessing authority after verification of the correctness of the claim, shall issue refund within ninety days from the date of the receipt of the application in Form W.

13. Section 42(3) - Interest Payable

In respect of any amount not paid on or before the due date as per the Act, the dealer shall pay in addition to the amount of taxes/penalty due, interest at one and a quarter percent per month or part thereof of such amount for the entire period of default.

14. Rule 6 - Maintenance of Accounts

Every registered dealer shall maintain true, correct and complete accounts in ink or electronic records in any of the languages specified in the Eighth Schedule to the Constitution of India or in English showing the goods produced or manufactured, bought, sold, delivered or supplied.

Records to be maintained includes

- Purchase account
- Sales/stock transfer account
- Production cum stock account
- Stock register
- Input tax adjustment account showing opening balance, claim during the period, output tax, adjustments, reversals, etc.

Relevant Statutory Provisions

- Capital goods input tax adjustment account
- Record of sales through agents
- Record of purchases/goods received for sale from principal
- Invoices
- Certificate of industrial inputs
- Register of certificates issued
- Register of certificates received
- Register of delivery notes
- Cash book
- Bank book
- General ledger

It is compulsory to maintain accounts of purchases and sales showing the following particulars.

Purchases

A register with the following format may be maintained

S. No	Name of Seller / Consignor and TIN	Commodity Code *	Goods movement documents like LR RR, DC etc	Invoice/ Challan No, Date	Value of goods	Rate of VAT/ CST	VAT/ CST Paid	Category*

*for these details refer the website of the Department

The above format should provide the under mentioned details and data prescribed.

- Invoice no., date and seller's TIN.
- Description of the goods purchased with commodity code.
- Quantity of goods.
- Value of goods purchased from registered dealers with rate of tax.

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- Value of goods purchased from unregistered dealers with rate of tax.
- Inter-State purchases with C Form.
- Inter-State purchases without issue of C Form.
- Value of goods purchased in respect of second schedule goods.
- Value of inward stock transfer from outside the State.
- Value of stock transfer from principal within the State.
- Value of goods imported.
- Value of goods returned.
- Total tax paid on purchases effected from registered dealers situated within the State of Tamil Nadu.

The monthly returns may be prepared by using the above particulars.

Categories of purchases/receipts as per Annexure I to Form I - VAT return:

Particulars	Category Code
Capital Goods	C
Exempted	E
Import	I
Inter-State Purchase	O
Local Purchase Input First Schedule	R
Stock Receipts from Head Office/Branches/Principals outside the State	S
Purchases effected through Agents/Branches	A
Industrial Inputs	B

The purchase orders, original tax invoices and goods received notes orders and delivery notes, job books, annual accounts including trading accounts, profit and loss accounts and balance sheet; bank statements and bank pay-in slips are also to be maintained.

Stock Transfer / Sales

S. No.	Name of Customer / Consignee and TIN	Commodity Code *	Goods movement documents like LR, RR, DC, etc.	Invoice No Date	Value of goods	Rate of VAT/ CST	VAT/ CST Paid	Category*

*for these details refer the website of the Department

The above format should provide the under mentioned details and data prescribed.

- Invoice no., date and buyer's Taxpayer Identification Number (TIN).
- Description of the goods with quantity and value sold.
- Value of purchases of exempted goods.
- Value of goods purchased from registered dealers with rate of tax.
- Value of goods purchased from unregistered dealers with rate of tax.
- Inter-State purchases with C Form.
- Inter-State purchases without C Form.
- Value of goods covered under the second schedule purchased.
- Value of inward stock transfer from outside the State.
- Value of stock transfer from Principal within the State.
- Value of goods imported.
- Value of goods returned.
- Total tax paid on local purchases.

Categories of Sales / Stock Transfer as per Annexure I to Form I - VAT Return:

Particulars	Category Code
Exempt	E
Sales Return	R
Inter-State Purchase	O
First Schedule	F
Stock Transfer outside the State	S
Sales effected through Agents/Branches in the State	A
Zero Rated Sales	Z

15. Rule 6(4) - Bill of Sale or Invoice

- Bill or invoice shall be issued for each sale in triplicate.
- The invoice shall contain the following particulars:
 - Name and Address of the Buyer & Seller
 - Sequential Serial No. of Invoice
 - Particulars of Goods
 - Quantity Sold
 - Value
 - Rate and Tax Charged
 - TIN of the Seller
 - TIN of the Buyer, if the Buyer is a Registered Dealer.
- The original is meant for the buyer, duplicate is to be retained by the seller and the third copy is to be kept for submission to the assessing authorities, whenever required.

Records to be maintained in respect of agency transactions

- **By the Principal**
 - Every registered dealer, who effects sales through agents shall maintain the accounts of goods consigned on each occasion, agent-wise showing the following particulars:
 1. Name and full address of the agent
 2. Nature and quantity of goods despatched
 3. Mode of despatch and delivery note

- The following documents shall also be maintained:
 1. Originals of the written contract, if any, entered into between him and the agent,
 2. Office copies of the authorisation letter, consignment notes or despatch advices, as the case may be, sent to the agent in respect of the goods despatched on each occasion.
- **By the Agent**
 - Every commission agent, broker, del credere agent, auctioneer or other mercantile agent, by whatever name called, shall maintain-
 - (ii) a register showing the particulars of goods purchased or received for sale, on each occasion, in respect of each principal, separately;
 - (iii) details of purchases or sales effected on behalf of each principal, showing the names of commodities, quantities and value of purchases or sales and the tax due thereon;
 - (iv) the original or copy of the written contracts, if any, entered into between the agent and the principal;
 - (v) copies of authorisations received by him to purchase or sell goods on behalf of each principal separately;
 - (vi) copies of pattiials, i.e., accounts rendered by the agent to the principal from time to time, showing the gross amount of the purchases or sales, deductions on account of commission and incidental charges and the net amount payable to the principal.

Statements to be filed by Agent

- Every agent shall furnish a statement in respect of each principal showing the turnover of purchases or sales effected on behalf of each principal in the previous month containing the following particulars, namely:-
 - Name and Address of the Principal with TIN and CST number.

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- Goods taxable at 1%, 5%, 14.5%, name of goods sold, value of each type of such goods.
- Amount of input tax paid or payable on purchases on behalf of the principal.
- Amount of output tax due on the turnover.
- The statement shall be furnished to the assessing authority concerned on or before the 20th of each month, relating to transactions effected during the immediately preceding english calendar month.

Production-cum-stock Account

Every registered dealer who manufactures or produces shall maintain a production-cum-stock account in Form H.

RAW MATERIALS

S. No	Date	Opening Stock	Purchase/ Stock Transfer/ Recycle, etc.	Total Stock (3+4)	Issues (6)			Wastage	Closing Stock (5-6)
					For Manufacturing	For Labour	For Sale		
(1)	(2)	(3)	(4)	(5)	(a)	(b)	(c)	(7)	(8)

FINISHED GOODS

S. No.	Date	Opening Stock	Production	Total (3+4)	Sales	Stock Transfer	Production Waste	Closing Stock (5 - 6 - 7)
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)

Input Tax Credit Adjustment Account

Every registered dealer, who claims input tax credit shall maintain an input tax adjustment account with the following particulars, namely:-

- Month
- Input Tax Credit brought forward
- Input Tax Credit claimed during the month at the following rates
 - 1%
 - 5%
 - 14.5%
- Purchase Tax Paid
- Reversal of Input Tax Credit
- Total Input Tax Credit
- Ineligible Input Tax Credit
- Net Input Tax Credit claimed
- Output tax
- Advance tax adjusted including entry tax, if any.
- Tax payable

Input Tax Credit on Capital Goods

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:-

- Month and Year
- Date of Commencement of Commercial Production
- 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

Details of Stock Transfers

- Stock Transfers (Inward)
 - Stock Transfer Note/Consignment Note
 - Goods Received Note
 - Form F issued
 - Register of Inward Stock Transfers
- Stock Transfers (Outward)
 - Stock Transfer Note/Consignment Note
 - Delivery Challan
 - Form F received
 - Register of Outward Stock Transfers

16. Rule 10(6) - Debit/Credit Notes

Adjustment for purchase/sales return will be allowed only if the goods are returned within a period of six months from the date of purchase/sale respectively.

However, any post sale credit notes issued for discounts or sales incentives shall be without affecting the tax component in the original invoice so as to retain the quantum of input tax credit already claimed by the buyer.

The following format of A4 prescribed under the TNGST Act, 1959 may be used for the sales returns:

S. No.	Name & TIN of Buyer	Sale Invoice & Date	Month in which Sale or Purchase Included in Turnover	Goods Involved & Quantity	Goods Returned or Received back with Quantity and Value	Reasons for the Return of Goods	Amount of Tax Paid	Credit Note or Debit note and Date	Whether Tax & Value Refunded in full	Goods Rebooking LR date and ref	Stock Book Page No.

17. Rule 6(7) - Jewellery Manufacturer

Jewellery manufacturer shall maintain an order book showing the following details:

Sl no	Date of Order	Name and Address of the Customer	Sequential Job Order No	Weight of Bullion or Old Jewels Semi-precious Stones	Date of Delivery of Finished Jewellery	Details of Bullion or Old Jewels Semi-precious Stones added by the dealer	Goods Returned and Accounting of Wastage

18. Section 6(4) - Works Contractor

A dealer, exercising option under sub-section (1) shall, so long as the option remains in force, not be required to maintain accounts of his business under this Act or the rules made thereunder except the records in original of the works contract, extent of their execution and payments received or receivable in relation to such works contract, executed or under execution.

Documents relating to Export Transactions

- Copies of the invoices related to the exports.
- Copies of bill of lading/air/road/railway bill no. & date.
- Copy of the customs clearance certificate.
- Purchase orders/contracts from foreign customers.
- Copies of the invoices issued in respect of sale against Form H.
- Form H declarations received.
- Register of Form H sales.
- Evidence of payment for the goods such as a copy of the letter of credit.
- High sale agreement, if the sale is in the course of export.

Documents in inter-State Sales

- Copies of the invoices related to the sales.
- Delivery challans.
- Evidence of transportation in the form of waybills/other evidence.

- Declaration in Form C, if any.
- Register in Form 10.

Documents relating to sales in the course of import

- Purchase order with date from customer in India.
- Goods import order placed with the foreign suppliers with date.
- Goods import details - import invoice, date, bill of lading, packing slip, etc.
- Local sale invoice after clearance by the dealer.
- Payment receipt details.

Documents relating to High Sea Sales

- Goods import order placed with the foreign suppliers with date.
- Goods import details - import invoice date, bill of lading, packing slip, etc.
- High sea sale agreement, if any.
- Endorsed copy of bill of lading, if any.
- Copy of bill of entry filed by the high sea buyer.
- Payment receipt details.

19. Rule 8 - Deduction from the Total Turnover

Sale of tax exempt goods under Fourth Schedule or notification issued u/s 30.

- Trade Discount shown in the invoice as a deduction from sale value.
- VAT charged separately.
- Consideration relating to sale of business as a whole.
- Interest or finance charges.
- Purchase returns within six months from the date of purchase provided that the amount is refunded and the date of return and refund date is shown in the accounts.
- Sales returns within six months from the date sale provided the amount is refunded and the date of receipt of returned goods and refund date is shown in the accounts.

- Agricultural or horticultural produce, (from own or leased land) which is not subjected to physical, chemical or other process for making it fit for consumption, save mere cleaning, grading, sorting or drying, shall be excluded from turnover.
- Amounts charged for anything done before or at the time of sale is includible in turnover like freight charges, transit insurance, packing charges, loading expenses, lot cooly, etc.,
- Certain amounts are not to be considered as assessable turnover like freight charges incurred post sales and got reimbursed at actuals, transit insurance at actuals when the terms of sale is ex factory or FOB terms, etc.

20. Rule 7 - Filing of Returns

(1) (a) Every registered dealer liable to pay tax under the Act, other than a dealer who opted to pay tax under sub-section (4) of section 3 or section 6 or section 8 including agent of a non-resident dealer and casual trader, shall file return for each month in Form I on or before 20th of the succeeding month, to the assessing authority in whose jurisdiction his principal place of business or head office is situated. Such return shall be accompanied by proof of payment of tax.

(b) Every in Form J on or before 20th of the succeeding month to the assessing authority in whose jurisdiction his principal place of business or head office is situated. Such return shall be accompanied by proof of payment of tax:

Provided that a registered dealer specified in clause (a) or (b), whose taxable turnover in the preceding year is two hundred crores of rupees and above, shall file the above returns on or before 12th of the succeeding month to the assessing authority in whose jurisdiction his principal place of business or head office is situated. Such return shall be accompanied by proof of payment of tax:

(c) The option exercised under sub-section (4) of section 3 of the Act shall be final for the financial year and such option shall be exercised within thirty days from the date of commencement of the Act or commencement of his business whichever is later.

(d) Every registered dealer who opts to pay tax under sub-section (4) of section 3 shall file a return for each month in Form K on or before 20th of the

succeeding month to the assessing authority along with proof of payment of tax.

(e) Every registered dealer who opts to pay tax under section 6 or section 8 shall file a return for each month in Form L on or before 20th of the succeeding month to the assessing authority along with proof of payment of tax.

(2) Every principal or head office shall include the turnover relating to the goods consigned to the agent and file a return in Form I for each month on or before 20th of the succeeding month with the particulars of name and full address of the agent, value of the goods sold or purchased, tax collected on sale and tax paid on purchase by the agent along with proof of payment of tax.

(3) Every branch or agent of a dealer shall file a return in Form I, on or before the date on which the head office or his principal has to file return, for the preceding month, to the assessing authority under whose jurisdiction he carries on business.

(4) Every department of Government liable to pay tax under the Act shall file a statement in Form M showing the total and taxable turnover for each quarter on or before 20th of the month succeeding the quarter along with proof of payment of tax.

(5) Every dealer liable to pay tax under the Act shall file return in duplicate:

Provided that such category of dealers as may be directed by the Commissioner shall file returns electronically or in ICR form supplied by the Government.

(6) If a dealer receives or returns in any year any amount due to price variation, he shall within thirty days from the end of the year submit a return in Form N to the assessing authority.

Suggested Accounting Treatment

Vat Credit in case of Inputs/Supplies

The following is extracted from the Guidance Note on Accounting for State-level Value Added Tax issued by the ICAI [GN (A) 19 (Issued 2005)]

Illustration

1. A dealer purchases the following goods in a State during the month of March 2013:

Relevant Statutory Provisions

Particulars	Total Amount (Rs.)	Input Tax Paid (Rs.)	Net Amount (Rs.)
4% VAT Goods	10,40,000	40,000	10,00,000
12.5% VAT Goods	9,00,000	1,00,000	8,00,000
VAT Exempt Goods	2,00,000	-	2,00,000
Total	21,40,000	1,40,000	20,00,000

2. The input tax paid on purchases of goods is eligible for VAT credit.

3. Sales made by the dealer during the month are as below:

Particulars	Gross Amount (Rs.)	Out put Tax Collected (Rs.)	Net Sales Consideration (Rs.)
4% VAT Goods	11,44,000	44,000	11,00,000
12.5% VAT Goods	10,12,500	1,12,500	9,00,000
VAT Exempt Goods	2,50,000	-	2,50,000
Total	24,06,500	1,56,500	22,50,000

1. The dealer passes the following entry to record the goods purchased and input tax paid thereon:

4% VAT Goods Purchase A/c	Dr.	Rs. 10,00,000
12.5 % VAT Goods Purchase A/c	Dr.	Rs. 8,00,000
VAT Exempt Goods Purchase A/c	Dr.	Rs. 2,00,000
VAT Credit Receivable (Inputs) A/c	Dr.	Rs. 1,40,000
To Bank A/c		Rs. 21,40,000

(Being the cost of goods purchased with VAT)

2. The dealer passes the following entry to record the goods sold and VAT collected thereon:

Bank A/c	Dr.	Rs. 24,06,500
To 4 % VAT Goods Sales A/c		Rs. 11,00,000
To 12.5% VAT Goods Sales A/c		Rs. 9,00,000
To VAT Exempt Goods Sales A/c		Rs. 2,50,000
To VAT Payable A/c		Rs. 1,56,500

(Being the value of goods sold with VAT)

3. The dealer passes the following entry to record the liability for VAT payable met by using the balance in the VAT Credit Receivable (Inputs) Account:

VAT Payable A/c	Dr.	Rs. 1,40,000
To VAT Credit Receivable (Inputs) A/c		Rs. 1,40,000

(Being liability for VAT payable, met by using the balance in the VAT Credit Receivable (Inputs) Accounts)

VAT Payable A/c is disclosed in the balance sheet as below:

Extracts from the Balance Sheet

<i>Current Liabilities:</i>	<i>Rs.</i>
VAT Payable Account	16,500

4. Accounting Standing (AS) 2, 'Valuation of Inventories', does not require disclosure of components of the cost of inventories as a part of significant accounting policies. However, the dealer may, if he so desires, include the following sentence in the accounting policy regarding valuation of inventories to specify the treatment regarding VAT credit available on purchases: the cost of inventory is exclusive of VAT credit.

5. The dealer may include the following sentence in the accounting policy regarding revenue recognition to specify the treatment of output tax: Sales are exclusive of VAT.

6. Suppose the dealer makes payment of outstanding VAT liability at the beginning of the next month. To record the payment, the dealer passes the following entry:

VAT Payable A/c	Dr.	Rs. 16,500
To Bank A/c		Rs. 16,500

(Being payment made for VAT liability)

21. Section 40 - Collection of Tax

(1) No person, who is not a registered dealer, shall collect any amount by way of tax or purporting to be by way of tax under this Act; and no registered dealer shall make any such collection except in accordance with the provisions of this Act and the rules made thereunder:

Explanation.- For the purposes of sub-section (1), any State Government or the Central Government or any dealer shall be deemed to be a registered dealer.

(2) If any person or registered dealer collects any amount by way of tax or purporting to be by way of tax, in contravention of the provisions of sub-section (1), whether or not any tax is due from such person or dealer under this Act in respect of the transaction in which he collects such amount, the assessing authority may, after giving such person or dealer a reasonable opportunity of being heard, by order, in writing, impose upon him by way of penalty a sum, which shall be:

- (i) where the excess amount has been collected in the bona fide belief that it had to be collected, one hundred per cent of the amount collected;
- (ii) where the excess amount has been collected wilfully and knowing that it was not due to be collected, one hundred and fifty per cent of the amount collected:

Provided that no proceedings under this sub-section shall be commenced after a period of five years from the date of order of the assessment:

Provided further that no prosecution for an offence under sub-section (2) of section 71 shall be instituted in respect of the same facts on which a penalty has been imposed under this sub-section.

22. Sections 3(2), 3(6), 3(7) - Tax on Spares and Accessories, Packing Materials

3(2) Subject to the provisions of sub-section (1), in the case of goods specified in Part - B or Part - C of the First Schedule, the tax under this Act shall be payable by a dealer on every sale made by him within the State at the rate specified therein.

3(6) When goods are sold together with containers or packing materials, the rate of tax applicable to such containers or packing materials, as the case may be, shall, whether the price of the containers or packing materials is charged separately or not, be the same as those applicable to the goods contained or packed and the turnover in respect of containers and packing materials shall be included in the turnover of such goods.

3(7) Where the sale of goods, packed in any container or packed in any packing material, in which such goods are packed, is exempt from tax, then the sale of such containers or packing materials shall also be exempt from tax.

Central Sales Tax Act, 1956

A. Categories of Sales

Sales can be broadly classified in three categories.

- (1) Inter-State Sale, e.g.: Chennai (Tamil Nadu) to Trivandrum (Kerala)
- (2) Sale during Import/Export- No tax is levied on sales during import or export.
- (3) Intra-State (i.e. within the State) sale – e.g. from Chennai to Madurai, etc.

If a sale is Inter-State or during export or import, it cannot be 'Sale within the State'.

B. Charging Section of CST

Section 6(1) imposes the levy on sale of goods on Inter-State sale. The levy is subject to other provisions and exemptions mentioned in the Act.

Section 8(1) prescribes concessional rate of taxes in certain cases.

Section 6(2) exempts subsequent sales by transfer of documents during movement of goods etc. Proviso to section 6(1) exempts sale of goods in the course of exports.

1. Meaning of 'Inter-State Sale'

Section 3 of CST Act, 1956 defines Inter-State sale or purchase as follows:

A sale or purchase of goods shall be deemed to take place in the course of inter-State trade or commerce if the sale or purchase

- a) occasions the movement of goods from one State to another or
- b) is effected by a transfer of documents of title to the goods during their movement from one State to another.

2. Sale which occasions Movement of Goods

As per Section 3(a), 'Inter State Sale' takes place if the sale occasions movement of goods from one State to another.

Hence, it can be said that a sale can be said to be in the course of inter-State trade and commerce only, if the following two conditions exists viz.,

- (i) Sale of goods
- (ii) A transport of those goods from one State to another.

3. Sale by Transfer of Documents (Section 6(2) of CST Act, 1956)

A sale or purchase of goods shall be deemed to take place in the course of inter-State trade or commerce if the sale or purchase is effected by a transfer of documents of title to the goods during their movement from one State to another. This definition is important as all subsequent inter-state sales to registered dealers by transfer of documents during movement of goods are exempt from sales tax [E-I, E-II transaction].

For example, when customer A at Chennai gets an order for the supply of goods to a customer B in Bangalore (Karnataka State) and despatches the goods from Chennai to Bangalore and sends the sale invoice and related Lorry receipt to B. The customer B in Bangalore instead of taking delivery of goods sent, makes a further sale to customer C in Cochin (Kerala) or to another customer M in Mysore (Karnataka) then the subsequent sale by B to C or M is called transit sale and the such subsequent sale by B is exempt from the levy of CST subject to the production of declaration forms/certificate.

B has to issue Form C to A and will collect E1 Certificate from A.

B has to collect Form C Declaration from C or M.

By producing the Form C and E1 Certificate the CST exemption is to be claimed.

Section 3(a) requires that sale should occasion movement of goods'.

There is no such requirement in Section 3(b). Hence, for purpose of Section 3(b), the movement of goods from one State to another need not be occasioned by sale.

A statement for the sales in transit is to be prepared as per Annexure II of monthly returns to be field by the dealer for the sales effected under this category. A copy of the CST monthly return is attached to this. The VAT auditor may verify the contents of this statement to satisfy about the correctness of the claim to decide about the exemption from the levy of CST.

4. Stock Transfer / Branch Transfer

If a manufacturer sends goods to his branch situated in other State, it is not a 'sale' as one cannot sell to his own self. One of the basic and obvious conditions of inter-State sale is that there should be a "sale".

Similarly, if a dealer sends goods to his agent in other State who stocks goods on behalf of the dealer, it is not a sale. Such agent is usually called

'Consignment Agent'. Goods are despatched to another State on consignment basis and the person despatching goods retains ownership of goods. Since no sale is involved, there is no 'Inter State Sale'.

Mere consignment of goods by a manufacturer to his own branches outside the State does not amount to sale or disposal as such; the consignment of goods is neither sale nor a purchase. This is called 'stock transfer' or 'branch transfer'. Here, movement of goods takes place from one State to another, but it is not an inter-State sale.

Goods received/sold by the consignment agent are not his purchases and sales. Therefore, the financial accounts may not reflect the details of goods received and sold. There is a need to reconcile the goods received and sold and this is to be considered while correlating the own sales (or purchases) of agent and that of the sales (or purchases) made by him as agent.

5. Calculation of Sales Turnover

CST is payable on 'turnover of a period' and at the rate determined as per Section 8.

Turnover - 'Turnover' [often called 'taxable turnover'] is defined u/s 2(j) as aggregate of the sale prices received and receivable by the dealer in respect of sales of any goods in the course of inter-State trade or commerce made during any prescribed period and determined in accordance with provisions of rules made thereunder. CST Act, 1956 and rules made thereunder.

Section 8A (1) states that in determining turnover, deductions are to be made from the aggregate of sale price. Such deductions are:

1. CST involved in the sale
2. Sales returns

Thus, total of 'sale price' of all inter-State sales effected during the prescribed period (monthly in Tamil Nadu) less the Central Sales Tax payable is the 'turnover' (taxable turnover) of dealer for that period.

The 'aggregate sale price' i.e. total sale price for the prescribed period is assumed as inclusive of Central Sales Tax and backward calculation is made. Thus, if aggregate of sale price is 'S' and rate of tax is 'T'; 'turnover' and 'tax payable' will be calculated as follows :

$$\text{Turnover} = \frac{100 \times S}{100 + T}$$

$$\text{Tax payable} = \frac{S \times T}{100 + T}$$

6. Aggregate Sale Price

Gross Turnover is aggregate sale price of all sales effected during a given period.

“sale price” means the amount payable to a dealer as consideration for the sale of any goods, less any sum allowed as cash discount according to the practice normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof other than the cost of freight or delivery or the cost of installation in cases where such cost is separately charged;

Provided that in the case of a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, the sale price of such goods shall be determined in the prescribed manner by making such deduction from the total consideration for the works contract as may be prescribed and such price shall be deemed to be the sale price for the purposes of this clause.

Invoice can be prepared by showing tax separately. When tax is not shown separately - in that case, it will be cum-tax price i.e. price inclusive of CST. In either case, ‘Sale Price’ will be the total amount received by the seller i.e. inclusive of tax.

Inclusions in Sale Price

Pre Sale Charges: Any sum charged for anything done by the dealer in respect of goods at the time or before the delivery of goods.

Thus, ‘sale price’ will include –

1. Weighment charges for weighing of goods at the time of delivery.
2. Design charges in respect of goods.
3. Central sales tax - whether or not shown separately in the invoice.
4. Excise Duty.
5. Packing material as well as packing charges (i.e. like labour charges for packing goods).

Freight and delivery charges allowable as deduction are only those which are incidental to sale. Thus, in case of sale of goods from depot, transport charges from factory to the depot cannot be allowed as deduction.

Exclusions from Sale Price

1. The cash discount for making timely payment. [Section 2(h)]
2. Transit Insurance charges incurred at the request of the buyer.
3. Freight Charges *
4. Sales Return

* Generally, CST is payable only on ex-works price and no CST is payable on freight and transport charges. However, CST may be payable on freight charges if

- Freight charges are not shown separately in invoice, or
- Contract is for FOR destination.

5. If goods are returned by the buyer within six months from the date of sale, the value of goods returned will be deducted from 'Aggregate Sale Price'.

7. Sections 5(1), 5(2), 5(3), 6(2), 8(5) & 8(6) - Exemptions from CST

CST is leviable even if sale of goods inside a State is exempt from VAT [Section 6(1A)]. However, this section is subject to:

- Section 6(2) - sales during movement of goods - (Transit sales or E1 sales)
- Section 6(3) - Central Government can grant exemption to foreign diplomatic missions Like UN, international organizations etc.
- Section 8(1) - this provides for lower/nil tax rate when sale is to registered dealer, when VAT is lower than 2% / Nil.
- Proviso to Section 6(1) - provides for exemption when sale is penultimate to export as defined u/s 5(3). (Form H sales)
- Section 8(6) - sale to SEZ unit.
- Section 8(5) - notification by State Government.

8. Section 5 - Sale in Course of Export

Article 286(1)(b) prohibits imposition of tax on import/export by States.

Charging Section 6(1) of CST Act levies tax only on inter-State sale.

Article 286(2) authorises the Parliament to formulate principles for determining when sale is in the course of import/export. Under these powers,

Section 5 of CST Act has been enacted.

Similarly, imports are subject to custom duty and hence these should not be subject to sales tax.

'Sale during export' includes not only direct exports, but also

- Sale by transfer of documents after the goods cross the customs frontiers.
- Penultimate sale for export (Form H).
- Export with the help of agent.

Section 5(1): A sale or purchase of goods is deemed to be in course of export of the goods out of the territory of India, only if the sale or purchase either occasion such export or is effected by a transfer of documents of title to goods after the goods have crossed the customs frontiers of India.

Section 5(3) states that notwithstanding provisions of section 5(1), last sale or purchase of goods preceding the sale or purchase occasioning the export of those goods out of territory of India shall also be deemed to be in the course of such export, if such last sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export.

In view of all the above, export sales, sale in the course of export are not taxable.

9. Section 5(3) - Penultimate Sale for Export

Penultimate sale, i.e. sale preceding the sale occasioning the export is also deemed to be in the course of export under section 5(3) of the CST Act, 1956 and is exempt from tax.

Exemption to penultimate sale is subject to the condition that the penultimate sale (i.e. last but one sale) is

- for the purpose of complying with agreement or order in relation to export and
- such sale is made after the agreement or order in relation to export and
- same goods which are sold in penultimate sale should be exported.

In other words, the actual exporter should be in possession of export order from foreign buyer and should take delivery of the goods from the supplier making penultimate sale, solely for the execution of such export order and

export the goods as such.

A statement containing the details as per annexure I of the CST monthly return in form 1 is to be prepared by the dealer for the sales effected under this category. A copy of the CST monthly return is attached to this. The VAT auditor may verify the contents of this statement to satisfy about the correctness of the claim to decide about the exemption from the levy of CST.

10. Section 14 & 15 - Declared Goods - Goods of Special Importance

There are restrictions on imposition of tax on the sale of declared goods - Article 286(3)(a).

'Declared Goods' are those, declared under Section 14 of CST Act, 1956 as 'goods of special importance in inter-State trade or commerce'.

Section 14 of CST Act, 1956 gives a list of such goods and Section 15 specifies restrictions on power of States to tax such goods. Additional excise duty is levied on sugar, which is also a 'Declared Good' under the CST Act, 1956.

List of some of the declared goods are:

- Cereals i.e. paddy, rice, wheat, bajra, jowar, barley, etc.
- Coal and coke in all forms excluding charcoal.
- Cotton in un-manufactured form but not cotton waste.
- Cotton fabrics, cotton yarn.
- Crude oil.
- Hides and skins.
- Iron and Steel i.e. pig iron, sponge iron, iron scrap steel ingots, billets, steel bars, etc.
- Jute.
- Oil-seeds i.e. groundnut, cotton seed, linseed, castor, coconut, sunflower, mahua, kokum, sal, etc.
- Pulses i.e. gram, tur, moong, masur, urad, etc.
- Aviation Turbine Fuel sold to a turbo-prop aircraft.

11. Section 17 - Other Provisions: Liability of Company in Liquidation

If a liquidator or receiver is appointed for a Company, he should inform VAT authorities within 30 days of the appointment. The appropriate VAT authority will inform him within three months the amount of tax due from company which is in liquidation. Liquidator cannot sell assets of company before setting aside amount of due as informed by VAT authorities - unless such transfer or sale is by order of Court, otherwise, liquidator is personally liable. [Section 17].

12. Section 18 - Liability of Directors of Private Limited Company in case of Liquidation

If a private limited company is being wound up, liability of directors of such private limited company is personal if amount cannot be recovered in liquidation i.e. the tax due can be recovered from his personal property. He can save the liability only if he proves that non-payment of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to affairs of the company.

13. Recovery of CST

Provisions of State VAT laws apply for recovery of CST also. Many of State VAT laws provide that tax dues will have priority over any tax due and a charge is created.

Chapter 7

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 not 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 thereunder 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 contractee how the claim can be established?

Without TDS certificate in original tax deduction cannot be claimed.