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GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
FINANCE (T&E) DEPARTMENT
DELHI SACHIVALAYA, I.P. ESTATE: NEW DELHI-02**

No.F.3(22)/Fin.(T&E)/2006-07/dsfte/344-353

Dated : 7/9/2006

NOTIFICATION

No.F.3(22)/Fin.(T&E)/2006-07 - WHEREAS the Lt. Governor of the National Capital Territory of Delhi is of the opinion that it is expedient in the interest of general public so to do.

Now, therefore, in exercise of the powers conferred by section 102 of the Delhi Value Added Tax Act, 2004 (Delhi Act 3 of 2005), the Lt. Governor of the National Capital Territory of Delhi, hereby, makes the following rules to further amend the Delhi Value Added Tax Rules, 2005, namely:-

RULES

1. Short title and commencement

- (1) These rules may be called the Delhi Value Added Tax (2nd Amendment) Rules, 2006.
- (2) They shall come into force with immediate effect.

2. Substitution of new rule for rule 3

In the Delhi Value Added Tax Rules, 2005 (hereinafter referred to as “the principle Rules”), for rule 3, the following shall be substituted, namely:-

“3. Works contract

(1) In case of turnover arising from the execution of the works contract, the amount representing the taxable turnover shall be the value at the time of transfer of property in goods (whether as goods or in some other form) involved in the execution of work contract and shall exclude -

- (i) the charges towards labour, services and other like charges; and
- (ii) the charges towards cost of land, if any, in civil works contracts; subject to the dealer’s maintaining proper records such as invoice, voucher, challan or any other document evidencing payment of referred charges to the satisfaction of the Commissioner.

Explanation.- Civil works contracts for the purpose of this rule shall include construction of building or complexes - residential or commercial, bridges, flyovers, dams, barriers, canals, diversions and other works of similar nature.

- (2) For the purpose of sub-rule (1), the charges towards labour, services and other like charges shall include-

- (i) labour charges for execution of works;
- (ii) charges for planning and architects fees;
- (iii) charges for obtaining on hire or otherwise machinery and tools used for the execution of the works contract;
- (iv) cost of consumables such as water, electricity, fuel, etc. used in the execution of the works contract the property in which is not transferred in the course of execution of a works contract;
- (v) cost of establishment of the contractor including cost of marketing, finance expenses and securities deposits to the extent it is relatable to supply of labour and services;
- (vi) other similar expenses relatable to supply of labour and services;
- (vii) profits earned by the contractor to the extent it is relatable to supply of labour and services subject to furnishing of a profit and loss account of the works sites;

PROVIDED that where amount of charges towards labour, services and other like charges are not ascertainable from the books of accounts of the dealer, the amount of such charges shall be calculated at the percentages specified in the following table :-

TABLE
PERCENTAGES FOR WORKS CONTRACTS

	Type of contract	Labour, service and other like charges are percentage of total value of the contract
1	Fabrication and installation of plant and machinery.	Twenty five percent
2	Fabrication and erection of structural works of iron and steel including fabrication, supply and erection of iron trusses, purloins and the like.	Fifteen percent
3	Fabrication and installation of cranes and hoists.	Fifteen percent
4	Fabrication and installation of elevators (lifts) and escalators.	Fifteen percent
5	Fabrication and installation of rolling shutters and collapsible gates.	Fifteen percent
6	Civil works.	Twenty five percent*
7	Installation of doors, doorframes, windows, frames and grills.	Twenty percent
8	Supply and fixing of tiles, slabs, stones and sheets.	Twenty percent
9	Supply and installation of air conditioners and air coolers.	Fifteen percent

	Type of contract	Labour, service and other like charges are percentage of total value of the contract
10	Supply and installation of air conditioning equipment including deep freezers, cold storage plants, humidification plants and de-humidors.	Fifteen percent
11	Supply and fitting of electrical goods, supply and installation of electrical equipments including transformers.	Fifteen percent
12	Supply and fixing of furniture and fixtures, partitions including contracts for interior decoration and false ceiling.	Twenty percent
13	Construction of Railway coaches and wagons on under carriages supplied by Railway.	Twenty percent
14	Construction or mounting of bodies of motor vehicle and construction of trailers.	Twenty percent
15	Sanitary fitting for plumbing and drainage or sewerage.	Twenty five percent
16	Laying underground surface pipelines, cables or conduits.	Thirty percent
17	Dyeing and printing of textiles.	Thirty percent
18	Supply and erection of weighing machines and weighbridges.	Fifteen percent
19	Painting, polishing and white washing.	Thirty percent
20	All other contracts not specified from Sl. No. 1 to 19 above.	Twenty percent

*Twenty five percent of total value of the contract excluding the cost of land transferred, if any.

(3) (a) In the case of works contract of civil nature where the payment of charges towards the cost of land, if any, is not ascertainable from the books of accounts of the dealer, the amount of such charges shall be calculated @ 30% of the total value of the contract except in the case of construction of commercial buildings or complexes where it shall be calculated @ 50% of the total value of the contract.

(b) In the case of works contract of civil nature where only a part of the total constructed area is being transferred, the charges towards the cost of land shall be calculated on a pro-rata basis by the following formula:-

$$\frac{\text{Proportionate super area}}{\text{Total plot area}} \times \frac{\text{Indexed cost of acquisition of land}}{\text{Floor Area Ratio}}$$

Explanation.- Proportionate super area for the purpose of this clause means the covered area booked for transfer and the proportionate common constructed area attributable to it.

(c) In the case of work contract of civil nature where only a part of total constructed area is being transferred, the deduction towards labour, services and other like charges mentioned in sub-rule (1) shall be calculated on a pro-rata basis.

(d) In the case of works contract of civil nature, the tax shall be payable by the contractor during the tax period in which the property in goods is transferred.

Explanation 1.- For the purpose of this rule, indexed cost of acquisition shall be calculated as per section 48 of the Income Tax Act, 1961.

Explanation 2.- No tax shall be payable by a contractor on the amount representing the value of the goods supplied by the contractee to the contractor in the execution of works contract in which the ownership of such goods remains with the contractee under the terms of the contract and the amount representing the value of the goods supplied by the contractee to the contractor does not form part of the contract and is not deductible from the amount payable to the contractor by the contractee for the execution of the works contract.”

3. Amendment in rule 16

In the principal Rules, in rule 16, in sub-rule (5), for the words and figures **“in Form DVAT-10:”** appearing after the words “by the date stated” and before the proviso, the words and figures **“in Form DVAT-11:”** shall be substituted.

4. Amendment of rule 24

In the principal Rules, in rule 24, in sub-rule (4), for the words and figure **“within 4 months”** appearing after the words “Commissioner has failed” and before the words “to return, release or discharge”, the words **“within six months”** shall be substituted.

5. Insertion of new rule 33A

In the principal Rules, after rule 33, the following shall be inserted, namely:-

“33A. Intimation of depositing the Government dues

Every dealer or person who, in pursuance of a notice of assessment or an order or a decision, is required to deposit any amount of tax or interest or penalty or composition money or any other amount due under the Act, shall, after depositing such amount or a part of such amount, furnish an intimation to the Commissioner in Form DVAT-27A within seven days of making such payment duly accompanied by Part C of the respective deposit challan in Form DVAT-20.”

6. Amendment of rule 35

In the principal Rules, in rule 35, after sub-rule (11), the following shall be inserted, namely:-

“(12) Notwithstanding anything contained in this rule to the contrary, where an organization, listed in the Sixth Schedule in the entry at Sl. No. 1, for the purpose of receiving the refund of tax borne in two different bank accounts viz. the refund of tax borne by the organization itself in one account and the refund of tax borne by all the qualified persons attached to the organization in the other account, furnishes two separate applications in Form DVAT-23, the commissioner may pay the refund admissible in two bank accounts.”

7. Amendment in rule 59

In the principal Rules, in rule 59, in sub-rule (3), for the words “**within thirty days**” occurring after the words and brackets “Tax Deduction Account Number (T.A.N.)” and before the words “from the date”, the words “**within seven days**” shall be substituted.

8. Amendment of rule 67

In the principal Rules, in rule 67, in sub-rule (1), the words “**or purchase**” occurring after the words “effecting sale” and before the words “or branch transfer”, shall be omitted.

9. Substitution of new forms for Forms DVAT-01 to DVAT-52

In the principal Rules, in the forms, for Form DVAT-01 to Form DVAT-52, the forms given in Appendix-A to this notification shall be substituted.

By order and in the name of the
Lt. Governor of the National
Capital Territory of Delhi,

(Ajay Kumar Garg)
Dy. Secretary, Finance (T&E)

No.F.3(22)/Fin.(T&E)/2006-07/dsft/344-353

Dated : 7/9/2006

Copy forwarded for information and necessary action to :-

1. The Pr. Secretary (GAD), Govt. of NCT of Delhi with one spare copy for its publication in Delhi Gazette Part-IV (extraordinary) in today's date.
2. The Secretary, Govt. of India, Ministry of Home Affairs, North Block, New Delhi.
3. The Secretary, Govt. of India, Ministry of Finance, Deptt. of Revenue, Jeevan Deep Building, New Delhi.
4. The Secretary to Finance Minister, GNCT of Delhi, Delhi Sachivalaya, I.P. Estate, New Delhi.
5. The Pr. Secretary (Finance), GNCT of Delhi, Delhi Sachivalaya, I.P. Estate, New Delhi.
6. The Commissioner, Department of Trade and Taxes, Bikri Kar Bhawan, IP Estate, New Delhi.
7. The Deputy Secretary (L&J), GNCT of Delhi, Delhi Sachivalaya, I.P. Estate, New Delhi.
8. The Registrar, Delhi Value Added Tax Appellate Tribunal, Bikri Kar Bhawan, I.P. Estate, New Delhi
9. VAT Officer (Policy), Department of Trade and Taxes, Govt. of NCT of Delhi, New Delhi.
10. Guard File.

(Ajay Kumar Garg)
Dy. Secretary, Finance (T&E)