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ARTICLE:

IMPOSITION OF VAT BASED ON ASSUMPTION

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LAW IN FOCUS

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A Value Added Tax is a kind of Consumption Tax. From the perspective of ultimate consumer, it is tax paid on purchase price. From the point of seller, it is a tax only paid on value added on a good and service at every stage starting from import, manufacture and ultimate sale to consumer by same or different person. The seller at every stage pay as VAT to treasury the amount equals to the difference between sales and previously paid VAT. The previously paid VAT is known as input tax and the deduction is known as input tax credit. For a manufacturer it can be shown as: Net VAT = Sales Value x 15% - Credit (VAT if any paid+ ATV paid to Customs)

In line with the best international practice, Bangladesh VAT legislation provides a standard rate for home consumption goods and services of 15% and a zero rate for exports. According to the Act, all taxable goods and services imported and supplied for consumption within the country are subject to a VAT @ 15%. A rate of 0% applies to all goods and services to be exported and deemed-exported from the country. But there are some other rates in practice that emerged due to different methods of calculation of VAT. Other than Standard Rate, there are some truncated value based preferential rates on some services.

For a trading company, VAT chain is as follows: it declares original value during import and preserve Bill of Entry > after bringing goods in its warehouse, it update Mushak-17 and 18 for import info and takes credit of input tax paid to Customs i.e. VAT and ATV > Declare Value to VAT officer for goods with actual price in which it is selling goods to clients > Issue Mushak-11 to client along with supply > Update Mushak-17 and 18 for sale info > pay VAT to treasury the amount equals to the difference between sales and import VAT > Submit Monthly Return.

The submission of monthly return by a registered person is mandatory under section 35 of the VAT Act. VAT is paid to the Government treasury by way of chalan to Bangladesh Bank/Sonali Bank. The monthly return is submitted in the relevant VAT zone and circle. It is submitted in a prescribed form (Mushak -19) in duplicate to the local VAT office within 15 days of the following month. There are provisions for quarterly and half-yearly submission of returns for some businesses.

Besides the above general VAT cycle, there are several specific return is required to be filed for any loss of destruction of raw materials, damages or deterioration etc. Such incident may happen in case of raw materials or finished product. In case of destruction of raw materials there is no ultimate production. Similarly in case of expiry of final product there is no sale to ultimate consumer. Hence, logically the trader or manufacturer may not be allowed to take input tax credit for VAT paid at import or wholesale stages for product which is not sold or manufactured, however under no circumstances they are liable to pay VAT for ultimate sale or whole sale.

Periodic Audit is conducted by VAT authorities to check whether the registered company is complying with the VAT Regulation. The VAT regulation is complex hence companies often fail to carry out its statutory obligation on due time. Besides, filling VAT return and complying with all obligations is so tedious and time consuming that often small business and new companies simply do not have enough resources to do so. The ultimate result is that they fail in complying with doing so. However, it is not uncommon for VAT officers to demand VAT based on assumption for sale or production which never took place, without any evidence and/or impose penalty for hiding sale.

Such practice is often happens due to lack of knowledge and surely very unhealthy and it discourages honest tax payers from paying revenue. Hence, the matter should be addressed immediately.

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ARTICLE:

AVOIDING VAT DISPUTES

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VAT has become a major talking point in recent times and more often than not business entities and entrepreneurs are facing multitude of legal disputes concerning the laws and practices surrounding Value Added Tax in Bangladesh. What happens when a certain amount of raw materials expected to produce X amount of manufactured goods actually produces Y amount of goods due to wastage, destruction of finished products or unused raw materials etc.? Being unaware of VAT related procedures and formalities can have serious implications for a business for example, paying any amount of excessive tax can substantially affect the balance sheet of a company by reflecting less profits or even incur losses in few cases.

However, the solution is not much complicated if one is aware of the process that needs to be followed in such cases. Disputes can be avoided by submitting relevant VAT challan (musak) relating to purchase, wastage of raw materials or wastage of finished products to avoid causing unwanted demand for VAT on products which were not actually sold. For instance, Form Musak - 27 may be used to declare Disposal of goods manufactured or produced damaged or destroyed accidentally (Section 41(1) VAT Rules 1991) and Form Musak - 26 shall be used to declare disposal of unusable or unused raw materials (Section 40 VAT Rules 1991).

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Application in Form "Musak-26" to the local Value Added Tax office has to be submitted by a registered person if it is considered that any input purchased by him on payment of VAT has become unusable, and has to be disposed. On the other hand, if a registered person considers that the goods manufactured or produced or stored for supply has, for the reason of being damaged or destroyed in accident or for any other reason become non-suppliable, he shall submit to the office of the local value added tax an application in Form "Musak-27". In the case of accident, the same has to be filed within twenty-four hours, of the occurrence of the accident or in the case of any other reason, within twenty four hours of being informed of the matter, for disposal of such non-suppliable goods. As such, other disputes regarding for instance, duty drawback may also be avoided by being aware of the relevant process and law laid down by the VAT Act 1991 and VAT Rules 1991.

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Acknowledgement:

-*Wikipedia, the free encyclopedia*
-<http://www.taxguidebd.com>
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