

OVERVIEW OF KVAT LAW

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Introduction

Karnataka Value Added Tax is a tax on sale of goods. The KVAT law provides for setting off of the tax paid on inputs (goods purchased) against the tax payable on sale of goods. This has been done in order to avoid the cascading effect of taxes. This concept was earlier used in Central Excise as Modvat and subsequently as Cenvat Credit scheme.

This can be explained with the help of an example. Suppose a dealer purchases goods worth Rs. 100 with a tax rate of 12.5% and makes a value addition of Rs. 50, in the absence of set off, he would sell the product to his customer at Rs. 162.50. If the tax rate on sale is 12.5%, the total value would be Rs. 182.82 with the tax payable being Rs. 20.32. If the set off is available, the price would be Rs. 150 with the tax on input being available for set off. The total price would be Rs. 168.75 with the tax payable being Rs. 18.75. This can be used for setting off by the customer where he himself happens to be a dealer. For the seller, the net outflow would be Rs. 6.25 (18.75-input set off of Rs. 12.5 on purchases). This in effect is the tax on his value addition alone.

A modified version of this set off scheme has been in force in India in the form of Cenvat under Central Excise Law and now equally applicable to Finance Act (Service Tax). Under KVAT Act, the set off available is of tax paid under this Act and not under any other Act. In other words, where CST is paid on interstate purchase, the same will not be available for set off though KVAT paid on inputs used in interstate sales can be set off against CST payable on such interstate sales.

Under this law, the concept of sale, dealer and goods assume importance.

Goods generally include movable property with the exception of newspaper, actionable claims, stocks and shares and securities. It includes articles involved in the execution of works contract as well.

As per Section 2 (29) of the VAT Act, "Sale" with all its grammatical variations and cognate expressions means every transfer of the property in goods (other than by way of a mortgage, hypothecation, charge or pledge) by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration. This includes transfer of rights to use goods as well as delivery of goods on hire purchase basis. Even where goods are transferred during the execution of works contract the same would be covered under this definition. Transfer of property in goods by Government/Local Authorities/Statutory Bodies would be covered even if such transfers are not in course of business. Even distribution of goods by clubs or associations to members would be covered.

"Dealer" means any person who carries on the business of buying, selling, supplying or distributing goods, directly or otherwise, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration. Even a casual trader would be covered. The definition also covers government undertakings. Clubs/Associations/Societies would be dealers if they distribute goods to members (whether or not in course of business).

Once the dealer ascertains as to whether the transaction amounts to a sale or not as aforesaid, he has to find out whether it is a sale within the state of Karnataka. Where the transfer of right to use goods is involved, sale is said to be within the state if the goods are for use within the state. Sale is also deemed to be within the state in case of contract of sale or purchase where in case of specific or ascertained goods, the goods are within the state at the time when such contract is made. In case of unascertained goods, sale will be within the state if the goods are within the state at the time of their appropriation to the contract of sale or purchase.

The sale is normally said to have taken place at the time of transfer of title or possession or incorporation of goods in the course of execution of works contract whether or not there is receipt of payment.

As per Section 2(14), "Export" means a sale of goods taking place in the course of the export of the goods out of the territory of India only if the sale either occasions such export or is effected by a transfer of the documents of title to the goods after the goods have crossed the customs frontiers of India and includes the last sale of any goods preceding the sale occasioning the export of those goods out of the territory of India, if such last sale took place after, and was for the purpose of complying with the agreement or order or in relation to such export.

The dealer will have to pay applicable taxes on sales to 100% EOU or to a SEZ unit. SEZ unit or a developer of SEZ would be entitled to refund of tax paid by them on their inputs as per section 20. The 100% EOU if it desires has to go in for refund under normal scheme under KVAT.

The importance of this definition stems from the fact that input tax on goods used for exports is not restricted under the law.

Agent and principal

The agent of a principal is not entitled to deduct input tax unless he happens to act on behalf of a non-resident principal (resident outside the state). The principal would be entitled to deduct input tax in respect of the purchases made by the agent on his behalf and the principal shall for this purpose get a declaration (VAT 145) from the agent before the prescribed date (within ten days from the end of the month).

Registration under KVAT Act

Who is liable to register?

A dealer is liable to register under the KVAT Act when -

- ✓ A Person whose taxable turnover is likely to exceed rupees two lakhs during any year
- ✓ A person whose taxable turnover exceeds fifteen thousand rupees in any one month
- ✓ A business or part of a business is transferred to him by another dealer liable to register but who has not registered
- ✓ A person who obtains or brings goods from outside the state whether as a result of purchase or otherwise
- ✓ A Person who exports goods outside the country
- ✓ A Person who effects a sale in the course of interstate trade or commerce or dispatches goods to a place outside the state
- ✓ A Person who is a casual trader or a non-resident dealer or his agent
- ✓ A Person who is involved in the execution of works contract

The registration is granted only from the date of application or from the date of commencement of business whichever is later.

Cancellation of registration may be needed where -

- ✓ Any business has been discontinued, transferred or disposed off or
- ✓ There is a change in the status of the ownership of the business or
- ✓ The taxable turnover during twelve months does not exceed rupees two lakhs or
- ✓ Death of a proprietor (legal heirs can apply for cancellation)

An amendment of the registration certificate might be needed where -

- ✓ A registered dealer sells or otherwise disposes off his business or part thereof or
- ✓ There is a change in the ownership of the business including any change in status or
- ✓ Business is discontinued or changed or new place of business is opened or
- ✓ Name of the business or the nature of the same is changed

Security:

As per Rule 24 of the VAT Rules, the security that can be demanded cannot exceed the limits as explained below -

- ✓ Where the dealer has opted to pay tax by way of composition u/s 15, an amount equivalent to the tax anticipated to be payable by him in a two months period, and
- ✓ In other cases, an amount equivalent to the tax anticipated to be payable by him in a three months period.

Dealers not registered

Where a dealer purchases his inputs from another dealer who is not registered under the Act, the purchasing dealer will be liable to pay tax on his purchases. This would be so even in case of transfer of property in goods during the execution of works contract by a contractor not registered under KVAT. The set off of such tax paid on purchases would be carried out as stipulated u/s 11.

Tax invoice under KVAT

A dealer making a taxable sale is required to issue a tax invoice for such sale. In case of sale of exempt goods or if the dealer pays tax under composition scheme, he is to issue a bill of sale. With effect from 01.04.2007, the amendments made even allow for affixing of digital signatures on the tax invoices.

The tax invoice like the invoice under Central Excise is a valuable document based on which the buyer is admissible for input/ capital goods set off. The procedure to raise such an invoice is as under:

The registered dealer shall issue a tax invoice when he sells taxable goods or sells exempted goods along with any taxable goods.

The tax invoice raised by the dealer should consist of complete details regarding the sale such as, serial number of invoice, date of issue of invoice, time of issue of invoice, name, address and registration number of the selling dealer, name and address of the buyer with registration number, full description of the goods, quantity of goods, value of the goods, rate and amount of tax charged in respect of taxable goods, total value and the signature of the selling dealer or his agent.

As per law, a duplicate invoice can be raised when the buyer requests for the same in case of loss of the original. The duplicate copy is to specifically state the fact that it is a duplicate.

Bill of sale under KVAT

A registered dealer selling non-taxable goods or selling goods in the course of inter-state trade or commerce or in the course of export out of the territory of India or import into the territory of India or a dealer opting to pay tax by way of composition u/s 15 shall issue a Bill of Sale. Where the values do not exceed Rupees 100, the transactions are to be consolidated at the end of the day, unless the buyer specifically requires for the bill of sale even where the value of sales is less than Rs. 100.

The Bill of sale shall contain the details such as, a consecutive serial number, date of sale, the name, address and the registration number of the selling dealer, description of the goods, the value of the goods.

The registered dealer who purchases from a person other than a registered dealer shall raise a bill consisting of the particulars such as, consecutive serial number with the date of purchase, name and address of the seller, description of the goods, value of the goods.

Computerised invoices

Even computerized invoices can be issued subject to safeguards. This year's amendments have even made usage of digital signatures possible.

Where digital signatures (issued under Information Technology Act 2000) are sought to be affixed, intimation is to be given to the LVO regarding the same with a copy of the digital signature certificate and the name of the person authorized to sign. This facility is under Rule 29 and extends to agents too.

Stock transfer notes

Where goods are not sold and are transferred, they should be accompanied by a stock transfer note in the prescribed form (VAT 515/505 as the case may be depending on the items involved). It is also the responsibility of every carrier of goods to ensure that valid documents in respect of such goods exist. This may be either a tax invoice or bill of sale or a stock transfer note in the prescribed form. Failure to follow this could result in goods being held up at check posts.

Filing of return

The dealer shall submit the return in Form VAT 100 along with the document showing the proof of payment of tax, to the jurisdictional local VAT officer or sub-officer on or before the twentieth day from the end of the month pertaining to which the return relates.

Revised return under KVAT

Where the registered dealer having filed the return in the normal course, finds any omission or incorrect statement therein, other than as a result of an inspection or receipt of any other information or evidence by the prescribed authority, he can file a revised return within six months from the end of the relevant tax period.

This is however, subject to sub-section (2) of section 72 which states that the dealer shall be liable to penalty where he understates his liability or overstates his entitlement to tax credit by more than five percent of his actual tax liability. The revised return cannot be filed where the original return had been filed after the best judgement assessment had been completed u/s 38 (2).

Note: - Where the local VAT officer has found any apparent errors/omissions in the return, he shall issue a notice in Form 150 requiring the dealer to submit the correct return and such a

return shall be furnished within ten days of issue of notice where again the above procedure could be followed.

Audit requirement

Where the turnover exceeds Rs. 40 lakhs, the accounts will have to be audited in accordance with section 31. This audit could be used to provide value adds in terms of appropriateness of classification, modes of delivery, optimizing of input deduction in addition to complying with the law.

Input tax set off scheme

“Input” means any goods including capital goods purchased by a dealer in the course of his business for re-sale or for use in the manufacture or processing or packing or storing of other goods or any other use in business.

“Capital goods” means plant, including cold storage and similar plant, machinery, goods vehicles, equipments, moulds, tools and jigs whose total cost is not less than an amount to be notified by the government or the commissioner, and used in the course of business other than for sale.

The restrictions as to the deduction of input tax in the calculation of net tax payable are basically contained in section 11 and 12 of the VAT Act besides Schedule V to the KVAT Act. Section 12 deals with the capital goods whereas Section 11 concentrates on inputs.

Input tax is *not deductible* in the following cases –

- ✓ Input tax paid on purchases attributable to the sale of goods exempted u/s 5 unless such goods are sold in the course of export out of the territory of India.
- ✓ Input tax paid by an agent purchasing or selling goods on behalf of any other person other than a non-resident principal.
- ✓ Input tax paid on goods specified in the Fifth Schedule and subject to such conditions as may be specified, purchased and put to use for purposes other than for resale or manufacture or any other process of other goods for sale.
- ✓ Tax paid on purchase of goods as may be notified by the Govt. or the Commissioner subject to specified conditions.

- ✓ Input tax paid on purchases attributable to naphtha, liquefied petroleum gas, furnace oil, superior kerosene oil, kerosene and any other petroleum product, when used as a fuel in motor vehicles.
- ✓ Input tax paid on purchase of fuel from unregistered dealers.
- ✓ Input tax on goods purchased by a dealer who is required to be registered under the Act, but has failed to register.

Where the input tax is paid in terms of purchases (other than fuel) from an unregistered dealer, no deduction shall be allowed until the output tax is payable on such goods or other goods in which such goods are put to use (except when the said goods are exported out of the territory of India).

The dealer seeking set off shall also ensure that the inputs are not subject to restriction under Schedule V to the Act as far as input tax set off is concerned.

As per Section 14 of the Act, the deduction of input tax shall be allowed to the extent of the input tax charged at a rate higher than two percent or any other lower rate notified by the government in respect of the following purchases—

- ✓ Purchases of goods that are dispatched outside the state (other than through sale), or are used as inputs in the manufacture, processing or packing of other taxable goods, which are dispatched to a place outside the state other than as a direct result of sale or purchase in the course of inter-state trade.
- ✓ Purchases of naphtha, liquefied petroleum gas, furnace oil, superior kerosene oil, kerosene and any other petroleum product used as fuel in the production of any goods for sale in the course of export out of the territory of India or taxable goods or captive power.

With regard to the capital goods input tax, the following may be noted as per Section 12—

- ✓ The input tax deduction is available in respect of the purchase of capital goods for use in the business of sale of any goods in the course of export out of the territory of India in case of registered dealer.
- ✓ Input tax deduction is also available in respect of purchase of capital goods wholly or partly for use in the business of taxable goods. In such cases the set off will be in the manner prescribed.

- ✓ Deduction is available only after commencement of production, or sale of taxable goods or sale of any goods in the course of export out of the territory of India by the registered dealer.
- ✓ The deduction shall be available in one lump sum since the system of apportioning was done away with in 2006 by way of an amendment in section 12.

The taxable turnover of the dealer should not be less than the limit fixed u/s 22(2) in the year of purchase in order to avoid a situation where set off is not available on capital goods. (Limit is Rs. 2 lakhs)

Partial rebating – Rule 131 read with section 17

Where a registered dealer deducting input tax, makes sales of taxable goods and goods exempt u/s 5 or in addition to those sales, dispatches taxable goods or goods exempted u/s 5 outside the state otherwise than a direct result of sale or purchase in the course of interstate trade or puts to use the inputs purchased for any other purpose (other than sale, manufacturing, processing, packing or storing of goods), in addition to the use in course of his business, he shall be required to apportion and attribute the input tax between such sales/dispatches and other purposes.

The scheme of partial rebating would also apply to petroleum products (eligible for set off).

The rule deals with finding out the non-deductible input tax as follows -

$$\frac{\text{(Sales of exempt goods + non taxable transactions) X total input tax}}{\text{Total sales (including non-taxable transactions)}}$$

This amount has to be deducted from the total input tax to arrive at the deductible amount of input tax.

Note: - All input tax directly relating to sale of exempt goods is not available. All input tax directly relating to taxable sales may be deducted, subject to provisions of Section 11. Purchase of petroleum items/fuel items specified u/s 11(6) shall be subjected to special rebating u/s 14 and if used towards both taxable as well as exempted activity/stock transfers outside state, to partial rebating u/s 17 as well.

Payment of VAT

The tax or any other amount under the Act or these Rules shall be paid by the dealer or any other person either in cash or by postal order, money order, crossed cheque or crossed demand draft which shall be drawn in favour of either the Registering authority, Jurisdictional local VAT officer or VAT sub-officer or any other authorized officer or by remittance into the Govt. treasury or SBI or its associate bank or any other bank approved by RBI (payment can be even by electronic remittance). The payment shall be along with a tax challan in Form VAT 152.

The tax is payable at the rates specified in the schedules with regard to the goods in question after setting of the input tax set off available.

Belated payment of VAT

Where the dealer having filed the return, fails to pay the tax declared on the return, he shall be liable for payment of interest u/s 37 at the rate of one and a quarter percent per month simple interest for the period of default.

Adjusting VAT set off

Rules 127 (1) and 127 (2) provide for the adjustment of excess amounts of input tax towards tax payable for any other month or quarter in arrears under the KST Act 1957, CST Act 1956 or the KTEG Act 1979, Karnataka Special Tax on Entry of Certain Goods Act 2004.

- ✓ The input tax deductible should exceed the output tax payable u/s 10(5) or as per final return submitted at the time of cancellation of return (where the dealer is liable to pay tax).
- ✓ The adjustment can be made against the liability for any other month or quarter under this Act or under CST Act.
- ✓ Where adjustment is to be made against liability under the other Acts specified above, the dealer can apply to the LVO
- ✓ Even the LVO is empowered to make adjustment and issue notice in Form VAT 250.
- ✓ Where eligible, the dealer can get a refund u/r 128 after such adjustment as long as he complies with the requirements as to furnishing of details of purchases.

Refund of VAT

The provisions pertaining to refund under KVAT can be examined in two ways -

- ✓ Rule 128(1) read with section 10(5) allows the dealer to get a refund where the input tax set off exceeds the output tax payable as per the return furnished and the adjustments as laid out under Rule 127 have been carried out as applicable. Here, the officer authorized by the Commissioner can issue a refund payment order in Form VAT 255 within 35 days from the date of filing of return within the specified time allotted or within 15 days from the date of receipt of a return filed after that period. The law does not provide for a separate refund application in this case.
- ✓ In addition to the aforesaid provision section 47 of the Act read with rule 129 provides for filing a refund claim where amounts are wrongly collected from a dealer. This refund would not be available where the dealer from whom it has been wrongly collected has availed input tax deduction of the amount of tax paid.

Deduction of tax at source

Section 18A requires every registered dealer to deduct and remit tax to the government at the rate applicable to the goods (on their sale) when they purchase the following goods from other registered dealer –

- ✓ Oil seeds
- ✓ Non refined oil
- ✓ Oil cakes
- ✓ Scrap of iron and steel
- ✓ Such other goods that may be notified by the commissioner

Question of deducting tax does not apply to inter state purchases. Delay in remittance will attract interest at 1 ¼ % per month. Statement of tax deducted is also to be submitted within 20 days from the end of the month.

Goods covered under MRP

Section 4 of KVAT Act provides a mechanism whereby a dealer dealing in pharmaceutical products may pay VAT at the applicable rate on the basis of the MRP of the product. If so, subsequent dealers would be exempted from payment of VAT. A clarification has also been issued to state that the taxable turnover shall not include the tax payable and the same shall be deducted from the MRP.

Records

Every registered dealer and every dealer liable to pay tax under this Act, shall keep and maintain a true and correct account of all his purchases, receipts, sales, other disposals, production, manufacture and stock showing the values of goods subject to each rate of tax under this Act including the input tax paid and output tax payable.

VAT set off/credit ledger (Register of purchases)

Rule 33(2) of KVAT Rules requires every dealer to maintain a register of purchases made within the state in Form VAT 170. (In reality the assessee rely on their accounting software to give the requisite information). This form has the following details -

- ✓ Serial number
- ✓ Date of entry
- ✓ Input supplier name
- ✓ TIN number of the supplier
- ✓ Description of the goods
- ✓ Tax invoice number and date
- ✓ Value of the goods with rate wise segregation
- ✓ Input tax amount with rate wise segregation

Record keeping - Production

Rule 33 (1) requires every registered dealer and every person liable to be registered under the Act to keep and maintain a true and correct account of his daily transactions showing the goods produced, manufactured, bought and sold by him and the value thereof separately together with invoices and bills.

VAT account

Rule 33 (3) of KVAT Rules requires a dealer to maintain a VAT account containing details as to the input and output tax together with the debit and credit notes issued during any tax period.

Debit notes and credit notes

Section 10 (4) of the VAT Act, allows the dealer to avail input tax deduction on the basis of a debit note or credit note, in relation to a sale, provided it is issued in accordance with Section 30 and is with the registered dealer taking the deduction at the time any return in respect of the sale is furnished. As per Section 30, these notes are to be issued containing the particulars as may be prescribed. As per Rule 31, a credit note or a debit note can be issued by a registered

dealer who has given a tax invoice in respect of sale of goods and thereafter, the goods or any part thereof are returned, the sale is cancelled or the value of the sale is altered whether due to a discount or otherwise.

Records by the agent, broker, Del credere agent or any other mercantile agent (for non-resident principal)

Every commission agent, broker, Del credere agent, auctioneer or any other mercantile agent is required to maintain accounts showing the prescribed particulars regarding their dealings with the principal. The particulars which an agent is supposed to disclose, are listed below –

- ✓ Authorization from the principal to purchase or sell goods on his behalf.
- ✓ Goods purchased or goods received for sale on behalf of the principal.
- ✓ Purchases and sales effected on a day-wise basis in terms of each principal.
- ✓ Correspondences with the principal.
- ✓ Tax paid on purchases and sales on behalf of the principal and the references for the same.
- ✓ Names of customers and suppliers for goods sold or purchased as the case may be.

Special Accounting Scheme

Where a dealer is liable to pay tax and he is unable to identify each individual sale, its value or the rate of tax, he may apply to the Commissioner to pay the net tax u/s 10 under the Special Accounting Scheme.

Total and taxable turnovers

The computation of total turnover and taxable turnover can be seen clearly from the table mentioned below –

Category of sale	Values/turnover
Sales within the state of Karnataka	<p><u>The total turnover is the Aggregate of: -</u></p> <p>A1.The total amount paid or payable by the dealer as the consideration for purchase of any goods from Unregistered Dealer.</p> <p>A2.The total amount paid or payable to the dealer as the consideration for the sale, supply or distribution within the state of any goods, whether by the dealer himself or through the agent.</p> <p>A3.The total amount paid or payable to the dealer as consideration for transfer of the right to use any goods for any purpose.</p> <p>A5.The total amount payable to the dealer as consideration in respect of</p>

goods delivered on hire purchase or any system of payment by installment.

A6. The aggregate of the sale prices received or receivable by the dealer in respect of sales of any goods in the course of inter-state trade or commerce, export out of the territory of India and sales in the course of import into the territory of India

A7. The value of all goods transferred or dispatched outside the state by way of stock transfer (otherwise than by sale)

The aggregate of the above shall be reduced by the following in order to arrive at the taxable turnover–

B1. The aggregate of the sale prices received or receivable by the dealer in respect of sales of any goods in the course of inter-state trade or commerce, export out of the territory of India and sales in the course of import into the territory of India

B2. The value of all goods transferred or dispatched outside the state by way of stock transfer (otherwise than by sale)

B3. Discount allowed in accordance with regular practice or as per terms of contract and the invoice or bill of sale discloses such discount and the purchaser has in reality paid the amount net of discount.

B4. All amounts allowed to purchasers for goods returned by them within six months from the date of delivery of goods.

B5. All amounts received from the URD when the goods purchased are returned within six months from the date of delivery.

B6. Sales of exempt goods

B7. All amounts realized by the sale of business as a whole

B8. All amounts collected by way of tax under the Act

B9. Turnover in respect of which the dealer's agent has paid tax and the dealer has furnished a certificate in Form VAT 140

B10. All amounts collected under Agricultural Produce Marketing (Regulations) Act 1966 as commission by a commission agent as long as no tax is collected on such commission.

B11. Interest on unpaid amount under hire purchase or system of payment by installment provided, such interest does not exceed twenty percent per annum on amount remaining unpaid and is charged for

separately.

B12. All amounts actually expended towards labour charges and other like charges for erection, installation, fixing, fitting out or commissioning of the goods used in the execution of works contract

For the purposes of this rule, it is also sought to be clarified that maximum retail prices shall exclude the tax payable under this Act and the tax collected for the purpose of arriving at taxable turnover. Where taxes are included, they shall be deducted including taxes paid by agent (Form VAT 140 to be obtained) along with the allowance for purchase returns.

Inspection, search and seizure

The KVAT law provides for inspections by authorized officers. The following points may be noted –

- ✓ Officers having permission of the Commissioner can enter and inspect the place of business or any other place where business is carried or accounts/documents are kept.
- ✓ The empowered officer can also go in for test purchases (This budget has also given them power to ask for refund once the goods are returned to the dealer)
- ✓ He can also direct the dealer to produce accounts and records of his business for inspection and can also record statement of the dealer
- ✓ There is a presumption that accounts and records found at any place of business relate to such business
- ✓ The officer can even take extracts of the records or place marks on such records as are found on such inspection
- ✓ Failure to maintain books of account for five years or till completion of assessment may invite a penalty of Rs. 10,000.
- ✓ For first failure to maintain books penalty not exceeding Rs. 2000 can be imposed and for subsequent failure, amount not exceeding Rs. 5000 can be imposed with additional Rs. 200 for every day of default.
- ✓ Even where there is failure to furnish information/records penalty not exceeding Rs. 5000 can be imposed with additional penalty of Rs. 200 per day of default.
- ✓ Unaccounted goods can be seized so as to meet the tax liability or where they cannot be seized, issue prohibitory orders prohibiting their removal

- ✓ Protective assessment order can be issued where it is believed dealer would not pay tax, penalty etc, and the amount becomes payable immediately
- ✓ In case of concealment of facts relating to business, search can be undertaken and the records can be seized if attempt to evade tax is suspected (receipt for documents seized to be given if requested)
- ✓ Seized documents can be retained for 180 days (with permission from higher authority beyond this period not exceeding 60 days at a time)
- ✓ Sealing or breaking down of godown etc possible if owner refuses cooperation
- ✓ Samples of goods can also be taken
- ✓ Appeal against seizure of goods to be within 7 days

Assessment and rectification

- ✓ Assessment means an assessment made or deemed to have been made on a return filed by the dealer under this Act and includes re-assessment (which can be taken up where a return is deemed to be incorrectly assessed or section 38 assessment is regarded to have understated tax liability)
- ✓ Best judgement assessment may be taken up where the return is not filed (monthly or final). In such cases, tax shall be paid within 10 days from the date of receipt of assessment.
- ✓ Assessment can be withdrawn when return is filed after best judgement assessment (within one month of receipt of assessment) but penalties and interest would be payable.
- ✓ Commissioner is empowered to notify cases for production of accounts in support of returns filed
- ✓ Protective assessment can be passed by authority permitted by Joint Commissioner/Additional Commissioner where there is reason to believe that the dealer shall not pay tax. (The dealer can make an application to JC/AC or the authority itself can pass order that such assessment was erroneous)
- ✓ Period of limitation for assessment/re-assessment normally is five years from the end of the tax period unless facts necessitating re-assessment were discovered in which case, it would be 3 years from the knowledge of such fact (without curtailing initial period of five years)
- ✓ In case of fraud or unregistered dealers liable to be registered, the period will be ten years

- ✓ Period relating to disposal of appeals shall not be reckoned to compute the period of limitation
- ✓ Rectification of assessments/re-assessments/appeal orders or revision orders as a consequence of a court order deeming them erroneous, would be within 3 years from the date of such order
- ✓ Rectification as a result of court order holding the tax to be assessed under a different provision of the law from the one it was assessed under, would be within 5 years from the date of such order.

We have covered most of the important aspects of the K-VAT law in this article.