

Punjab Value Added Tax- Ready Reckoner

Compiled By -

J S BEDI Advocate

Email ID: bediadvocate@yahoo.co.in

Contact Number: 98140-66336

VAT has been born after a severe labour pain. Taxes play a great role in development and growth of any enterprise, and in turn, of the economy of nation. This ready reckoner is prepared with the aim to present the changes in Punjab Value Added Tax Act, 2005 at one place. Ready reckoner is divided in to different parts containing the general information, tax calendar, Procedure of Registration, Input tax Credit, Works Contract, Refund, Appeal, Assessment, Revision, Entry Tax, Interest, Penalties and other vital information like forms, fees, time limits under the Punjab Value Added Tax Act, 2005.

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Time Limits under Punjab Value Added Tax Act, 2005		
Particulars	Rule/ Section	Time
Application for registration in Form VAT-1	S21, 22, R3,4,5	Within 30 days when such person liable to pay tax
Issue of the Registration Certificate	R5(1), S21	Within 30 days of application
Revalidation of Bank Guarantee	R4(2), S25	Within 30 days from expiry
Fresh Surety submission, if existing Surety becomes insolvent	R4(3), S25	Within 30 days of such occurrence
Declaration of name of the Manager	R9, S21	Within 30 days from registration
Application for amendment of Registration in VAT-5	R11, R12	Within 30 Days from occurrence of need
Application for cancellation of Registration	R13(1), S24	Within 30 Days of the occurrence of need
Order of cancellation of Registration	R13(3), S24	Within 30 Days from the receipt of application
Service of copy of the order of cancellation of Registration	R13(4), S24	Within 15 days from the date of cancellation order
Submission of final Return in the event of cancellation of registration	R36(4) S26(8)	Within 30 days of such closure
Request for extension of period of Casual Business	R31, S31	3 working days in advance
Furnishing of particulars of entering into a Works Contract	R46(1), S27	Within 30 Days from contract
Application for allotment of TDS number in case of Works Contract	R46(2) S27	Within 30 days of accrual of liability
Allotment of TDS number in case of Works contract by the officer	R46(2) S27	Within 7 days from application
Claim of ITC from sale in respect of goods returned	R15(1) (g)	Within 6 months from the sale
Receiving back of goods dispatched for job work for ITC admissibility	R20, S13	Within 90 days from the date of dispatch
Order of allowing claim of ITC on duplicate invoice by the officer	R26(2) S13	Within a 60 days from the receipt of application
Furnishing of quarterly return when tax is deposited in cash	R36(1)(2), S26(3), S33	Within 30 days from expiry of each quarter
Furnishing of quarterly return when tax is deposited through Cheque or draft	R36(1)(2), S26(3), S33	Within 20 days from expiry of each quarter
Monthly Tax Payment, if annual tax	R36(1), S26(3), 33	30 th day of month for Cash

liability during previous year was Rs. 2 lakh or if gross turnover exceeds Rs. 1 Crore, if a person in export or inter-State trade opting for monthly return/tax		and 20 th day of month for Cheque
Payment of Tax by a Casual Trader	R32 S31(6)	First day of the week
Furnishing of quarterly return by lumpsum person	R36A S8A	Within 30 days from expiry of each quarter
Deposit of TDS by a Contractee	R46(3), S27(4)	Within 15 days of close of each month
Filing of Annual Statement	R40, 41. S26(7), 43	For Taxable persons: Up to 20 th November, For registered persons: 20 th August
Information of excess tax or interest payment, if any by the Designated Officer	R43(2), S29	Within 1 month of scrutiny
Reference of case for Audit	R43(4)	Within 15 days of non-compliance
Furnishing of monthly statement of TDS by contractee	R46(4), S27(4)	Within 15 days after TDS Deposit
Tax Demand Notice	R51, S29	Within 30 Days, or Date Specified
Issue of refund Voucher or refund adjustment order	R52(10)	Within 60 days from the date of submission
Period for production of accounts as per notice of assessment	R47(1)	Minimum of 10 days
Scrutiny intimation	S29(1)	Within 2 years from end of Financial Year
Assessment by designated officer	S29(2) 29(3)	Within 3 years after filing of annual statement
Rectification of assessment	S29(8)	Within 1 year from the date of assessment order
Provisional Assessment	S30(2)	Within 6 months
Amendment of Assessment	S29(7)	Within 3 year from the date of assessment Order
Audit for purpose of assessment after filing of return	S28(3)	Within 6 years from the date of furnishing of return
Retention period of accounts and documents	S44, R66	6 Years from the end of the year to which these relate
Seizure of books/documents on inspection	S46(3)	Upto 30 days for Current accounts and 60 days for old accounts
Intimation regarding change in system of accounts	R58(1)	Within 15 days of such change
Monthly Scroll from Treasury to the Excise & Taxation Officer,	R84	Within First week of each month
Submission of VAT 36 by an importer	65(2)	Within 15 days from receipt

		of goods
Detention period of goods/vehicle	S51(6)	Not exceeding 72 hours
Submission of transit slip at exit point	S51(4)	Within 48 hours
Auction of detained goods in case of non-payment of penalty	S51(8)	Within 30 days from date of communication order
Payment of entry tax at ICC	R4	Within 48 hours of import
Appeal to Appellate Authority	R72(2) S62(4)	Within 30 days of order of communication
Appeal to Tribunal	S 63(2)	Within 30 days of order
Revision application to Tribunal	S65(2)	Within 30 days of order
Rectification of mistake by the officer	S66(1)	Within 3 years of order
Appeal to High Court after receipt or order	S68 (2)	Within 60 days from date of receipt of order
Appeal under Punjab Tax on Entry of Goods Act	S6(3)	Within 60 days of order communication

Definitions under Punjab Value Added Tax Act, 2005

1. In this Act, unless the context otherwise requires, –

- (a) “account books” means record of business transactions and includes accounts, registers and documents maintained in any manner including electronic medium;
- (b) “appointed day” means the date on which this Act comes into force;
- (c) “business” includes -
- (i) any trade, commerce, manufacture, adventure or concern whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make profit and whether or not any profit accrues there from; and
- (ii) any transaction in connection with or ancillary or incidental to such trade, commerce, manufacture, adventure or concern;
- (d) “capital goods” means any plant, machinery or equipment including equipment for pollution control, quality control, laboratory and cold storage, used in manufacturing, processing and packing of taxable goods for sale;
- (e) “carrier of goods” includes a person or a transport company or a booking agency, who transports, receives or delivers goods;
- (f) “casual trader” means a person other than a taxable person or registered person, who whether as principal, agent or in any other capacity, undertakes occasional transactions in the nature of business involving purchase, sale, supply or distribution of goods or conducting any exhibition-

cum-sale in the State, whether for cash, deferred payment, commission, remuneration or other valuable consideration;

(g) “Commissioner” means the “Excise and Taxation Commissioner”, appointed by the State Government under sub-section (1) of section 3;

(h) “declared goods” means goods declared under section 14 of the Central Sales Tax Act, 1956, to be of special importance in inter- State trade or commerce;

(i) “designated officer” means an officer appointed under section 3 and conferred with the powers to carry out any of the purposes of this Act by a notification issued by the State Government;

(j) “document” means title deeds, writing or inscription and includes electronic data, computer programs, computer tapes, computer discs, photographs, video tapes and the like that provides evidence;

(k) “goods” means all kinds of movable property, whether tangible or intangible, other than newspapers, actionable claims, money, stocks, shares and securities and includes livestock, growing crops, grass, trees, plants attached to or forming part of the land, which are agreed to be severed before the sale or under the contract of sale;

(l) “goods vehicle” includes –

(i) any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer constructed or adapted for use for the carriage of goods and any vehicle not so constructed or adapted when used for the carriage of goods solely or in addition to passengers, but does not include a vehicle running upon fixed rails or a vehicle of a special type adapted for use only in a factory or any other enclosed premises; and

(ii) any animal – driven or man – driven vehicle used for the carriage of goods solely or with passengers;

(m) “gross turnover” includes the aggregate of the amounts of sales and/or purchases made by any person during the given period, including any sum, charged on account of freight, storage, demurrage, insurance and for anything done by the person in respect of the goods at the time of or before the delivery thereof;

Explanations –

(1) The proceeds of any sale made outside the State by a person, who carries on business both inside and outside the State, shall not be included in the gross turnover.

(2) The sum receivable or received from any person in respect of transaction of forward contract, in which goods are actually not delivered, shall not be included in the gross turnover.

(3) In respect of transactions of delivery of goods on hire-purchase or any system of payment by instalments, the amount to be included in the gross turnover shall be the total sum payable by the hirer under a hire-purchase agreement in order to complete the purchase of or the acquisition of property in the goods to which the agreement relates and includes any sum as payable by the hirer under the hire-purchase agreement by way of deposit or other initial payment or credited or to be credited to him under such agreement on account of any such deposit or payment whether that sum is to be or has been paid to the owner or to any person or is to be or has been discharged by payment of money or by transfer or delivery of goods or by any other means, but does not include any sum payable as a penalty or interest or compensation or damages for breach of the agreement.

(4) The amount to be included in the gross turnover in respect of movable goods, agreed to be sold under a works contract, shall be its sale price;

(n) “import” means bringing of goods into the State from any place outside the territorial jurisdiction of the State;

(o) “input tax” in relation to a taxable person means value added tax (VAT), paid or payable under this Act by a person on the purchase of taxable goods for resale or for use by him in the manufacture or processing or packing of taxable goods in the State;

(p) “input tax credit” means credit of input tax (in short referred to as ITC) available to a taxable person under this Act;

(q) “manufacture” includes any activity that brings out a change in an article or articles as a result of some process, treatment, labour and results in transformation into a new and different article so understood in commercial parlance having a distinct name, character, use, but does not include such activity of manufacture as may be notified otherwise;

(r) “offence” means any act or omission made punishable under this Act;

(s) “output tax” in relation to a taxable person means the tax charged or chargeable or payable in respect of sale and/or purchase of goods, as the case may be, under this Act;

(t) “person” includes a sole proprietor, a partnership, a Hindu undivided family, a company, a society, a trust, a club, an institution, an association, a local authority, a department of any State Government, Union territory Government or Central Government, a Government enterprise, a statutory body or other body corporate, who whether or not in the normal course of business, purchases, sells, supplies or distributes any goods in the State, irrespective of the fact that the main place of business of such person is outside the State and where the main place of business of any such person is not in the State, ‘person’ includes the local manager or agent of such person in the State in respect of such business and also includes a person engaged in the business of -

(i) transfer, otherwise than in pursuance of a contract of property in any goods for cash, deferred payment or other valuable consideration;

(ii) transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract;

(iii) delivery of goods on hire-purchase or any system of payment by instalments;

(iv) transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration; and

(v) supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service is for cash, deferred payment or other valuable consideration:

Provided that an agriculturist or a member of his family, who sells within the State exclusively the agricultural produce, grown on any land inside the State in which he has an interest, whether as owner, mortgagee, tenant or otherwise, shall not be deemed to be a person;

Explanations –

(1) A co-operative society or a club or an association which sells or supplies goods to its members is a person within the meaning of this clause.

(2) A factor, a broker, a commission agent, a person's agent, an auctioneer or any other mercantile agent by whatever name called and whether of the same description as here-in-before mentioned or not, who carries on the business of selling, supplying or purchasing goods and who has in the customary course of business, authority to sell goods belonging to the principals or to purchase goods on their behalf, is a person within the meaning of this clause.

(3) For the purpose of this clause, "Government" will include the Government of India or the Government of any State or the Union of India or the Union Territories.

(4) Each of the following persons or bodies, who dispose of any goods including unclaimed or confiscated or as unserviceable or scrap surplus, old or obsolete goods or discarded material or waste products whether by auction or otherwise directly or through an agent for cash or for deferred payment or for any other valuable consideration, notwithstanding anything contained in this Act, irrespective of the fact whether such disposal was in the course of business or not, shall be deemed to be a person for the purposes of this Act to the extent of such disposals, namely:–

(i) Municipal Corporations, Municipal Councils and other local authorities constituted under any law for the time being in force;

(ii) Railways Administration as defined under the Railways Act, 1989;

(iii) Transport and construction companies;

(iv) Any person holding permit for the transport vehicles granted under the Motor Vehicles Act, 1988, which are used or adapted to be used for hire;

(v) the State Road Transport Corporations;

(vi) Customs Department of the Government of India administering the Customs Act, 1962;

(vii) Insurance and Financial Corporations or companies and banks included in the Second Schedule to the Reserve Bank of India Act, 1934;

(viii) advertising agencies; and

(ix) any other corporation, company, body or authority, owned or set up by, or subject to the administrative control of the Central Government or any State Government ;

(u) “place of business” means any place where a person purchases or sells goods and includes the place where such person stores, processes, produces or manufactures goods or keeps books of accounts or documents or any other place where business activity is conducted;

(v) “prescribed” means prescribed by rules made under this Act;

(w) “purchase” with all its grammatical or cognate expressions means the acquisition of goods for cash or deferred payment or other valuable consideration otherwise than under a mortgage, hypothecation, charge or pledge and includes, –

(i) transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;

(ii) transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(iii) delivery of goods on hire-purchase or any system of payment by instalments;

(iv) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(v) supply by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not into dictating) where such supply or service is for cash, deferred payment or other valuable consideration,

and such transfer, delivery or supply of any goods shall be deemed to be a purchase of these goods from the person making the transfer, delivery or supply to a person to whom such transfer, delivery or supply is made ;

(x) “purchase price” means the amount of valuable consideration paid or payable by a person for any purchase made, including any sum charged on account of freight, storage, demurrage, insurance and any other sum charged for anything done by a person in respect of the goods at the time of or before delivery thereof;

Explanation –

(1) Purchase price shall not include the tax paid or payable under this Act by a person in respect of such purchase.

(2) In respect of the goods listed in Schedule H, any tax, duty, cess or fee paid or payable under the Punjab Agricultural Produce Markets Act, 1961 (Punjab Act No. 23 of 1961) or the Punjab Rural Development Act, 1987 (Punjab Act No. 6 of 1987) or the Punjab Infrastructure (Development and Regulation) Act, 2002 (Punjab Act No. 8 of 2002) by or on behalf of the seller or the purchaser, shall also form part of purchase price.

(y) “quarter” means a period consisting of three months, commencing from the first day of April, July, October and January of a calendar year;

(z) “registered person” means a person, who is registered for the purpose of paying turn-over tax under this Act;

(za) “repealed Act” means the Punjab General Sales Tax Act, 1948;

(zb) “retail invoice” means an invoice issued to the purchaser by a taxable or registered person or a casual trader, listing therein the goods, sold, with price, quantity and value;

(zc) “return” means a true and correct account of business pertaining to the return period in the prescribed form;

(zd) “return period” means the period for which returns are to be furnished by a person;

(ze) “reverse input tax credit” means an amount of input tax credit, which is required to be reversed by a taxable person on account of-

(i) credit note for output tax received from seller of goods on purchases in respect of which input tax credit is claimed;

(ii) goods, returned subsequent to availing the input tax credit;

(iii) goods, subsequently not used in accordance with the conditions prescribed for availing input tax credit; and

(iv) having availed the credit required to reverse the same in accordance with the provisions of sub-sections (8) and (9) of section 13;

(zf) “sale” with all its grammatical or cognate expressions means any transfer of property in goods for cash, deferred payment or other valuable consideration and includes -

(i) transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;

(ii) transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(iii) delivery of goods on hire-purchase or any system of payment by instalments;

(iv) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(v) supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;

(vi) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration; and

(vii) every disposal of goods referred to in Explanation (4) to clause (t) of this section;

and such transfer, delivery or supply of any goods shall be deemed to be a sale of these goods by the person making the transfer, delivery or supply to a person to whom such transfer, delivery or supply is made, but does not include a mortgage, hypothecation, charge or pledge.

(zg) “sale price” means the amount of valuable consideration received or receivable by a person for any sale made including any sum charged on account of freight, storage, demurrage, insurance and any sum charged for anything done by the person in respect of the goods at the time of or before the delivery thereof;

Explanation –

(1) In relation to the transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract, ‘sale price’ means such amount as is arrived at by deducting from the amount of valuable consideration paid or payable to a person for the execution of such works contract, the amount representing labour and other charges incurred and profit accrued other than in connection with transfer of property in goods for such execution. Where such labour and other charges are not quantifiable, the sale price shall be the cost of acquisition of the goods and the margin of profit on them plus the cost of transferring the property in the goods and all other expenses in relation thereto till the property in such goods, whether as such or in any other form, passes to the contractee and where the property passes in a different form, it shall include the cost of conversion.

- (2) In relation to the delivery of goods on hire purchase or any system of payment by instalments, the amount of valuable consideration payable to a person for such delivery.
- (3) In relation to the transfer of right to use any goods for any purpose (whether or not for a specified period), the valuable consideration received or receivable for such transfer.
- (4) The amount of duties levied or leviable on goods under the Central Excise and Salt Act, 1944 (1 of 1944), or the Customs Act, 1962 (52 of 1962), or the Punjab Excise Act, 1914 (1 of 1914), shall be deemed to be part of the sale price of such goods, whether such duties are paid or payable by or on behalf of the seller or the purchaser or any other person.
- (5) Sale price shall not include tax paid or payable to a person in respect of such sale.
- (zh) “Schedule” means the Schedule appended to this Act;
- (zi) “section” means a section of this Act ;
- (zj) “State” means the State of Punjab;
- (zk) “State Government” means the Government of the State of Punjab;
- (zl) “taxable goods” means the goods, other than the goods declared tax free under section 16 of this Act;
- (zm) “tax period” means a period for which a person is required to pay tax under this Act or the rules made thereunder;
- (zn) “taxable person” means a person, who is registered for the purpose of paying value added tax under this Act;
- (zo) “taxable turnover” means that part of gross turnover of sales or purchases, as may be determined after making such deductions from the gross turnover of sales or purchases, as are admissible under this Act or as may be prescribed, on which a person shall be liable to pay tax;
- (zp) “Tribunal” means the Tribunal constituted under section 4 of this Act;
- (zq) “Turnover tax” (in short referred to as TOT) means a tax, leviable on the taxable turnover of a registered person as per the provisions of this Act;
- (zr) “Value added Tax” (in short referred to as VAT) means a tax leviable on the taxable turnover of a persons, other than a registered person, under this Act;
- (zs) “VAT invoice” means an invoice issued by a taxable person to another taxable person listing therein the goods supplied, with the price, quantity, value and VAT charged;

(zt) “vessel” includes any ship, barge, boat, raft, timber, bamboos or floating materials propelled in any manner;

(zu) “works contract” includes any agreement for carrying out, for cash, deferred payment or other valuable consideration, building ,construction, manufacturing, processing, fabrication, erection, installation, fitting out, improvement, modification, repairs or commissioning of any movable or immovable property; and

(zv) ”year” means the financial year beginning from the first day of April, and ending with the 31st day of March.

Definitions .- In these rules unless the context otherwise requires,-

(a) “Act” means the Punjab Value Added Tax Act,2005 ;

(b) “appellate authority” means the Deputy Excise and Taxation Commissioner of the Department, who has been appointed as such by notification.

(c) “appropriate Government treasury” means a treasury or sub-treasury of the State Government or a branch of the State Bank of India, State Bank of Patiala or any branch of a Scheduled Bank, authorised to transact the State Government business by the Reserve Bank of India, situated in the district in which the person concerned has his place of business or the principal place of business in the State, if the business is carried on at more than one place;

(d) “ Department” means the Department of Excise and Taxation ;

(e) “Form” means a Form appended to these rules;

(f) “ month “ means a calendar month ;

(g) “owner of goods” means the owner of goods and includes the consignor or consignee or their authorized representative or the driver or the person in charge of the goods vehicle, as the case may be, or the person in whose possession the goods are found in a given situation ;

(h) “revisional authority” means the Commissioner or any other officer of the Department, not below the rank of an Assistant Excise and Taxation Commissioner , appointed as such by notification by the State Government;

(i) “tax fraction” means the fraction calculated in accordance with the following formula:-

Sale X Rate of Tax (S X R)

Divided By

Rate of Tax (R) + 100

(in short)

S X R

R + 100

(j) “warehouse” means any enclosure, building or vessel in which a person keeps stock of goods, meant for business;

Punjab Value Added Tax Act, 2005 Registration

Registration Liability

Who are Liable	Turnover Exceeds
A Manufacturer	1 Lac
A Person, running Restaurant or Hotel	5 Lac
A person who is running a bakery	10 Lac
An Importer of taxable goods for sale or use in Manufacturing activities within the State	1 Lac
A Person who receives goods on consignment or branch transfer basis from within or outside the State on which no tax paid under this Act	1 Lac
A person liable to pay purchase tax under Section 19	1 Lac
A person who wants voluntary registration	10 Lac
A person dealing in taxable goods, who is registered under the Central Sales Tax Act, 1956	Nil
Any other person for VAT	50 Lac
Any Person for TOT Registration	5 Lac

Detail of Documents required for New Registration Number under the Punjab VAT Act, 2005 and Central Sales Tax Act, 1956.

1. Form VAT-1.
2. Central Sales Tax Form.
3. Rs.2,000.00 for Registration Certificate Fee under Punjab VAT Act,2005 & Punjab Municipal Fund.
4. Surety Bond or Bank Guarantee.

a) Under Punjab VAT Act, 2005 in favour of Excise & Taxation Officer- Cum- Designated Officer, Jalandhar.

b) Under CST Act, 1956, Jalandhar.

c) Each Rs. 50,000.00 (Fifty Thousand Only)

5. Affidavit.

6. Purchase Bill outside the State as required under VAT & CST Act.

7. 4 Passport Size Photo.

8. Proof of place of Business.

9. Residence Proof of Person.

10. MOA and AOA in case of Company.

11. Bank Account of the Firm / Company.

12. Copy of PAN Card of the Firm / Company.

13. Partnership Deed in case of Partnership.

14. Nature of Business:

a) Detail of Items required for manufacturing / resale / use in Work Contract.

Persons liable to register.

Section 21 (1) No person other than a casual trader, who is liable to pay tax under this Act, shall carry on business, unless he is registered under this Act.

(2) Every person required to be registered under sub-section (1), shall make an application for registration, within a period of thirty days from the date when such person becomes liable to pay tax under this Act, in the prescribed manner to the designated officer.

(3) If the designated officer is satisfied that the application for registration is in order, he shall, in accordance with such manner and on payment of such fee, as may be prescribed, register the applicant and grant him a registration certificate in the prescribed form:

Provided that if the designated officer is satisfied that the particulars contained in the application are not correct, or are incomplete or that any evidence or information required for registering the applicant, is not furnished, he may, after necessary inquiry and after giving the applicant an opportunity of being heard, reject the application for reasons to be recorded in writing. However,

the applicant may submit a fresh application for registration in accordance with the provisions of this Act:

Provided further that during the pendency of an application for registration, he shall file return and pay the due amount of tax, in the prescribed manner.

(4) Where a person has contravened the provisions of sub-section (1), the designated officer shall, subject to action under section 52 or section 60, as the case may be, register such person and grant him a registration and such registration shall take effect as if, it had been granted under sub-section (3) on the application made by the person.

(5) When any person, who was registered before the appointed day under the repealed Act, and continues to be so registered on the day, immediately before such appointed day, and is liable to pay tax under this Act on such appointed day, the designated officer shall, within thirty days of receipt of application in the prescribed form, issue to such person, in the prescribed manner, a fresh registration under this Act for VAT or TOT, as the case may be.

(6) For the purpose of identification of taxpayers, the Commissioner or the designated officer, shall issue a VAT Registration Number (hereinafter in short referred to as VRN) to every taxable person and TOT Registration Number (hereinafter in short referred to as TRN) to every registered person.

(7) Every taxable person or a registered person, who is allocated a registration number, shall mention his VRN or TRN, as the case may be, in all returns, forms or any other documents, used for the purposes of this Act.

(8) Every person, who is liable to pay tax, and who is a Hindu undivided family or an association of persons, club or society or firm or company or, who is engaged in business as the guardian or trustee or otherwise on behalf of another person, shall make a declaration to the designated officer, stating the name of the person or persons, who shall be deemed to be the manager or managers of such person's business for the purposes of this Act.

(9) Save as otherwise provided in section 77, a registration, granted under this Act, shall be personal to the person to whom it is granted and shall not be transferable.

Voluntary registration for VAT

Section 22 (1) Subject to the provisions of sub-section (3) of section 6, any person except one dealing exclusively in goods declared tax-free under section 16, may apply in the prescribed manner to the designated officer for registration under this Act.

(2) The provisions of sub-sections (2), (3) and (5) of section 21, shall apply in respect of applications for registration under this section.

(3) Every person, who has been registered upon application made under this section shall, for so long as his registration remains in force, be liable to pay tax under this Act whether his gross turnover exceeds the taxable quantum or not.

Amendment of registration.

23. The designated officer may from time to time, by order in writing, amend registration on information furnished under section 76.

Cancellation of registration

24. (1) The designated officer may, on an application made to him, or otherwise, by an order in writing, cancel registration, on -

(a) an information received that a business, in respect of which a registration was granted under sub-section (3) of section 21, has been discontinued; or

(b) an information received that the person has violated any of the provisions of this Act or the rules made there-under; or

(c) non-filing of return or non-payment of due tax under this Act; or

(d) any other sufficient cause including misuse of the registration or cessation of liability to payment of tax under this Act; or

(e) the registration granted under the Central Sales Tax Act, 1956, to a person liable to pay tax by virtue of the provisions of section 7, but who is not otherwise liable to pay tax under section 6, has been cancelled.

(2) Where registration is cancelled under this section without making an application by the person concerned, no order for such cancellation shall be passed by the designated officer, without affording an opportunity of being heard.

Security from certain classes of persons.

25. (1) Every person applying for registration under this Act, shall furnish a security of rupees fifty thousand in the manner, prescribed for securing proper and timely payments of tax or any other sum, payable by him under this Act:

Provided that the security already furnished by a person registered under the repealed Act, shall be deemed to have been furnished under this Act.

(2) The designated officer granting registration, may, on application made by a person for release, discharge or refund of the security, order the release, discharge or refund of the whole security or any part thereof, furnished by him, if the same is not required.

Explanation.- The designated officer shall not be required to retain security or surety furnished by a person on behalf of a taxable person or registered person, if the registration of such a person has been cancelled under this Act and nothing remains due against such a person.

(3) Where it appears expedient to the designated officer, granting registration, so to do, for the proper realisation of, tax payable under this Act, he may, at any time while such certificate is in force, by an order in writing and for reasons to be recorded therein, require the person, to whom the registration has been granted, to furnish within such time, as may be specified in the order and in the prescribed manner, such additional security, not exceeding rupees two lac in addition to the security, furnished under sub-section (1), as may be specified in the order, for the aforesaid purpose:

Provided that no person shall be required to furnish any additional security under this sub-section, unless he has been given an opportunity of being heard.

(4) The designated officer, granting the registration, may, by an order in writing, for good and sufficient cause, forfeit or realise the whole or any part of the security or additional security furnished by a person for recovery of any amount of tax or penalty due or payable by a person:

Provided that no order shall be passed under this sub-section without giving the person concerned, an opportunity of being heard.

(5) In case the security is rendered insufficient because of the order made under sub-section (4), the person concerned shall furnish further security to make up for the amount, which has fallen short, in such manner and within such time, as may be prescribed.

Process of E-Filing of Return

Step 1. login with your username and new password. Username is your TIN No.

step 2: download VAT-15, VAT-18, VAT-19, VAT-23, VAT-24 and Form-1 in excell format from efilling portal.

Step 3: fill your data in excel sheets, save the same in a folder in your PC.

Step 4: click on the upload forms at the left side of efilling window.

Step 5: PAN, email id and Phone number must be provided at the efilling window.

Step 6: browse saved excel files in the respective area and click on save and next.

Step 7: a new window will be opened click next to proceed and then print your acknowledgment, and submit the same to the department along with tax receipts.

Quarterly Return: 1) Every registered person under this Act is required to file quarterly returns within 30 days from the expiry of each quarter along with the proof of payment the last date of

return is 20th if payment is to be made by Cheque or Draft and 30th if payment by Cash or RTGS from the end of the quarter. Persons with annual tax liability of Rs. 2 lakh or more during the Previous year are required to pay tax on monthly basis along with the information in form VAT-16. Such persons to furnish proof of tax payments of previous two months along with their quarterly returns.

(2) Every registered person shall make self assessment of tax and shall file return for every quarter in the following month of the quarter and the last date of payment by Cheque or Draft is 20th and by Cash is 30th day from the end of the quarter.

(3) Every person shall, in such manner, as may be prescribed, pay into a Government Treasury or any bank authorized to transact Government business or at the District Excise and Taxation Office, the full amount of tax due from him as per provisions of this Act and shall furnish along with the returns, receipt from such Treasury or Bank or District Excise and Taxation Office, as the case may be, showing the payment of such amount:

Provided that no payment of such amount shall be accepted at the District Excise and Taxation Office, except through a bank draft or crossed cheque drawn on a local Scheduled Bank in favour of the designated officer.

If annual tax liability during the previous year was Rs. 2 Lakh or more, then taxable person is under an obligation to file monthly statement in VAT-16 along with due tax.

(4) If any person referred to in sub-sections (1) and (2), discovers any bonafide error or omission in any return furnished by him, he may rectify such error or omission in the return, due to be filed immediately following the detection of such error or omission. If such rectification results in a higher amount of tax to be due than the original return, it shall be accompanied by a receipt for payment of the additional amount of tax, payable along-with the interest at the rate specified under this Act for the period of delay, in the manner prescribed in sub-section (3). No such rectification shall, however, be allowed after the end of the financial year immediately following the year to which the rectification relates or issue of a notice for audit or assessment whichever, is earlier. Where such rectification results in excess amount of tax having been paid than due, such excess tax shall be refundable on application as per provisions of this Act and the rules framed thereunder. No adjustment shall, however, be allowed for such excess payment.

(5) In addition to any return under sub-sections (1) and (2), the Commissioner or the designated officer may, require a taxable person or a registered person to furnish such further information along-with the returns or at any other time, as may be deemed necessary.

(6) Notwithstanding anything contained in this section, the Commissioner or the designated officer, as the case may be, may by notice, direct a person other than a taxable person or a registered person, to file returns at such intervals and in such form and containing such information, as may be required.

(7) Every taxable person or registered person, as the case may be, shall file an annual statement in form VAT 20 upto 20th November and it should be accompanied by Balance Sheet and

Trading & Profit & Loss A/c along with statutory forms like C, D, E, F, G, H etc. Annual return should be certified by a Chartered Accountant if Turnover Exceeds Rs. 50 Lakh.

(8) A taxable person or a registered person, whose registration is cancelled under section 24, shall file such final return, as may be prescribed, within thirty days from the date of cancellation by the Commissioner or the designated officer, as the case may be.

Returns.–(1) Every taxable person shall file quarterly self-assessed return in Form VAT-15 within a period of thirty days from the date of expiry of each quarter along with the proof of the payment made into the appropriate Government Treasury and the Tax Deductions at Source (hereinafter referred to as the TDS) certificates, if any:

Provided that where a person opts to make the payment of tax through crossed cheque or bank draft, he shall enclose the crossed cheque or the bank draft, as the case may be, along with the return, which shall be filed within a period of twenty days from the date of the expiry of the quarter:

Provided further that a person, whose annual gross turnover exceeds rupees one crore in the previous year, shall determine his tax liability for every month and shall pay tax by the 20th day of the month, if paid through the crossed cheque or draft and by the 30th day of the month, if paid through the treasury receipt and shall submit the same to the designated officer, along with the information in Form VAT-16; and payment for the last month of each quarter shall be made on the 20th or the 30th day of the close of quarter, as the case may be, along with the quarterly return. The return in Form VAT 15, shall be accompanied by photocopies of the treasury receipt evidencing the payment of tax for the previous two months also.

Provided further that a person making sales in the course of inter-State trade or export out of India may, by making an application to the designated officer, opt to file self-assessed return on monthly basis in Form VAT-15 within a period of twenty days, if payment of tax is made by a crossed cheque or draft and within a period of thirty days, if payment is made through a treasury receipt.

(2) Every registered person, shall file quarterly self-assessed return in Form VAT-17 within a period of thirty days from the date of expiry of each quarter along with the proof of payment made into the appropriate Government Treasury and the TDS certificates, if any:

Provided that a person, who opts to make payment of tax through the crossed cheque or bank draft, he shall enclose the crossed cheque or the bank draft, as the case may be, along with the return, which shall be filed within a period of twenty days from the date of the expiry of the quarter.

(3) In the case of a taxable person or a registered person, having more than one place of business in the State, returns shall be submitted by the authorised person of principal place of business in the State and shall include the total value of goods sold or purchased or transferred by all additional places of business of such taxable person or registered person, as the case may be.(4) In the event of cancellation of registration, the taxable person or registered person, as the case

may be, shall file a final return in Form VAT-15 or Form VAT-17, as the case may be, within a period of thirty days of such closure along with a statement of stock existing on the date of closure.(5) A return in Form No. VAT – 15 or VAT – 17, as the case may be, shall be in duplicate. The original copy, shall be retained by the designated officer and the duplicate copy shall be returned to the person after acknowledging the same by signing and affixing the official stamp and the receipt number.

INPUT TAX – As per Section 2 sub-clause (o) of the Punjab Value Added Tax Act, 2005, “input tax” in relation to a taxable person means value added tax (VAT), paid or payable under this Act by a person on the purchase of taxable goods for resale or for use by him in the manufacture or processing or packing of taxable goods in the State.

INPUT TAX CREDIT – As per Section 2 sub-clause (p) of the Punjab Value Added Tax Act, 2005, “input tax credit” means credit of input tax (in short referred to as ITC) available to a taxable person under the provisions of this Act.

- Input tax includes tax paid on:

(i) Purchases of raw material;

(ii) Goods purchased for resale;

(iii) Purchase of capital goods such as machinery or equipment for use in business;

(iv) Tools and accessories used in business; and

(v) Packing material for resale and use in manufacture

- Input tax credit or set-off is the allowance of input tax against the tax payable on the sale and purchase of goods.
- Net VAT payable by a taxable person is equal to the output tax payable less available input tax credit.
- for use in the manufacture, processing or packing of taxable goods for sale within the State or in the course of inter-State trade or commerce or in the course of export.

When Partial Input Tax Credit is admissible:- Section 13(2) of the Punjab Value Added Tax Act, 2005 read with Rule 22 of the Punjab Value Added Tax Rules, 2005, input tax credit is allowed to the extent by which the amount of tax paid in the State exceeds 4% for goods:-

(i) Section 13(2)(a) of the Punjab Value Added Tax Act, 2005 read with Rule 22 of the Punjab Value Added Tax Rules, 2005 sent outside the State other than by way of sale in the course of inter-State trade or commerce or export;

(ii) Section 13(2)(b) of the Punjab Value Added Tax Act, 2005 read with Rule 22 of the Punjab Value Added Tax Rules, 2005 used in manufacture, processing or in packing of taxable goods

sent outside the State other than by way of sale in the course of inter-State trade or commerce or export;

(iii) Section 13(3) of the Punjab Value Added Tax Act, 2005 read with Rule 20 of the Punjab Value Added Tax Rules, 2005 sent for job work for further processing and not received back within ninety days;

(iv) Section 13(4) of the Punjab Value Added Tax Act, 2005 namely, furnace oil, transformer oil, mineral turpentine oil, water methanol mixture, naphtha and lubricants, used in production of taxable goods or captive generation of power.

Section 19(5) of the Punjab Value Added Tax Act, 2005: Under the Central Sales Tax Act, 1956, input tax credit on the Schedule 'H' goods or the products manufactured there-from, when sold in the course of inter-State trade or commerce, is available only to the extent of Central Sales Tax chargeable under the Central Sales Tax Act, 1956.

Section 13(1) of the Punjab Value Added Tax Act, 2005 read with Rule 19, 22, 23 & 24 of the Punjab Values Added Tax Rules, 2005: When the goods purchased are also used for purposes other than taxable sales.

(i) Apart from taxable sales, goods are used in production, tax free sales, consignment or branch transfers, zero rated sales, inter-State sales.

(ii) Capital goods, used partially for manufacture of taxable goods and partially for manufacture of tax free goods.

(iii) That entire input tax credit is allowable on capital goods as there is no provision which casts liability on the dealer to reverse the input tax credit exceeding 4%.

Rule 22: Calculation of input tax credit.—*Subject to the provisions of rules 23 and 24, a taxable person shall be entitled for input tax credit of whole of the amount of tax paid on purchases of goods during the tax period or return period after reducing therefrom the reverse input tax credit if any:*

Provided that in respect of the goods, specified in sub-sections (2) and (3) of section 13 of the Act, the input tax credit shall be availed only to the extent by which the amount of tax paid in the State exceeds four percent:

Provided further that the purchase tax paid under section 19 of the Act, shall be considered as input tax credit for the purpose of subsequent sale in the hands of same person.

The above issue has been decided in favour of dealer by the Hon'ble Appellate Authority in the case of Sharu Special Alloys (P) Limited.

Rule 21(2-A) of the Punjab Value Added Tax Rules, 2005: Input Tax Credit is available only to the extent of tax payable on the resale value of goods or sale value of manufactured / processed goods, when such goods are sold at a price:

- (i) lower than purchase price in the case of resale, or
- (ii) lower than cost price in the case of manufactured/ processed goods.

Sub-Rule (2-A) was inserted with effect from 09.11.2010 vide Notification No.GSR.37 / P.A.8 / 2005 / S.70 / Amd. (31) / 2010 dated 08th November, 2010.

Section 13(1) and Section 13-A of the Punjab Value Added Tax Act, 2005: No input tax credit is admissible, for the taxable goods purchased by a person, when

(i) purchases made from outside the State of Punjab. However, any entry tax paid under the Punjab Tax on Entry of Goods into Local Areas Act, 2000, while importing such purchases would qualify for input tax credit.

(ii) purchaser is not a taxable person (VAT person).

(iii) purchases not made against 'VAT Invoice'. However 'Vat Invoice' would not be required when input tax credit is claimed against purchase tax paid under Section 19 the Punjab Value Added Tax Act, 2005 or Entry Tax paid under Section 13-A of the Punjab Tax on Entry of Goods into Local Areas Act, 2000.

Section 13 of the Punjab Value Added Tax Act, 2005 read with Rule 19(1) of the Punjab Value Added Tax Rules, 2005: A taxable person is entitled to input tax credit on capital goods purchased by him from a taxable person within the State of Punjab provided that the capital goods so purchased are used for manufacture of taxable goods. Where capital goods are used for manufacturing taxable as well as tax free goods, input tax credit will be admissible on prorata basis.

Export of goods: Sales in the course of export out of the territory of India are Zero-rated Sales. On such sales no output tax is payable though the input tax paid on the purchases related to such sales is available as input tax credit. An exporter is eligible to claim refund of input tax in respect of VAT paid within Punjab on its purchases. Or else, an exporter can purchase goods for purpose of exports without paying any tax subject to furnishing a declaration in form 'H' as specified in the Central Sales Tax Act, 1956.

Rule 21(1) of the Punjab Value Added Tax Rules, 2005: Input Tax Credit is not available corresponding to the goods lost, destroyed or damaged beyond repair.

In the case of Bharat Petroleum Corporation Ltd vs. State of Punjab 19 VST at page 118, the Hon'ble Punjab & Haryana High Court denied input tax credit on petrol / diesel to the petitioner who was engaged in the business of refining of crude and marketing of various petroleum products. Thereafter matter was disposed of by Hon'ble Supreme Court of India in favour of

Bharat Petroleum Corporation Ltd with the observation that if appeal is filed than the appellate authority will decide the matter in accordance with law.

Thereafter matter was finally decided by Hon'ble Punjab VAT Tribunal in favour of assesseees.

Rule 20 of the Punjab Value Added Tax Rules, 2005: Goods sent for job works – ITC admissibility – Input tax credit is available on goods sent for job work for further processing, if the goods are received back within a period of ninety days.

Rule 21(2) of the Punjab Value Added Tax Rules, 2005: When goods are sold at price –

- (i) lower than purchase price in the case of resale, or
- (ii) lower than cost price in the case of manufactured / processed goods,

Input Tax Credit is available only to extent of tax payable on the resale value of goods or sale value of manufactured / processed goods.

Promotional sales: Input Tax Credit is available as long as the goods purchased are for the purpose of taxable sales. Question is whether goods sold free in some sale promotional scheme, such as buy one – get one free, entitles for ITC claim.

Sub-section (5) states that no input tax credit would be admissible for goods used for gifts. In this situation, what needs to be seen is, whether the 'get one free' is a 'zero price sale' or a 'free gift'.

Going by the definition of 'sale' as given in Section 2(zf) of the Punjab Value Added Tax Act, 2005, sale includes transfer of property by other valuable consideration as well. Can the linking of one goods with sale to other goods, be treated as valuable consideration. Also, another point to note is that the seller has the liberty (to change) to bill the freebies at a price say 1 rupee. Full ITC will be available as long as price of such goods is more than the purchase price.

Section 8A(2)(a) of the Punjab Value Added Tax Act, 2005: Input Tax Credit is not admissible to a taxable person in respect of goods purchased by him from a 'lump-sum person' registered under the lump-sum tax payment option scheme under the Punjab Value Added Tax Act, 2005. A 'lump-sum person' cannot issue 'VAT Invoice' for sale made by him.

Section 13A of the Punjab Value Added Tax Act, 2005: Entry Tax so paid by a taxable person, registered under the Punjab Value Added Tax Act, 2005 is adjustable as set off against the subsequent tax liability under the Punjab Value Added Tax Act, 2005 and the Central Sales Tax Act, 1956. A taxable person is entitled to input tax credit in respect of the Entry Tax paid by him, provided the goods imported are for the purpose of:

- (i) sale in the State or
- (ii) in the course of inter-State trade or commerce or

(iii) in the course of export or

(iv) for use in the manufacture, processing or packing of taxable goods for sale within the State or in the course of inter-State trade or commerce or export.

Diesel used in generation of electric power for captive use: Input Tax Credit is not available on diesel used in generation of electric power for captive use. The decision of the Hon'ble Tribunal was set aside by the Hon'ble Punjab & Haryana High Court in the case of State of Punjab vs. Malwa Cotton & Spinning Mills, Ludhiana (2011) 39 VST 65. The Hon'ble High Court held that a perusal of Section 13(5) of the Punjab Value Added Tax Act, 2005 clearly shows that diesel in an item on which input tax credit is not available unless as provided under clause (b). In view of such express provision, resort could not be had to clause (i). It is settled principle of law that an express and special provision excludes a general provision. It is pertinent to point out that an SLP against the above judgment of the Hon'ble P&H has been filed before the Hon'ble Supreme Court of India.

In another case the Hon'ble Supreme Court of India in the case of **Commercial Taxation Officer, Udaipur vs. Rajasthan Taxchem Ltd.** has observed as under:-

“In view of the fact that the diesel is being used for the purpose of running the generator sets for the production of the ultimate product which is also required for the purpose of manufacturing the end product the diesel can only be termed as raw material and not otherwise.”

Change from TOT to VAT: A person, who was earlier registered as TOT and subsequently gets himself registered for VAT, won't be entitled for input tax credit on the stock held by him on the date of change of registration and would be liable to pay TOT on such stock, if sold within thirty days from such date. In case he is unable to sell such stock within thirty days of change of registration, he would have to pay applicable VAT on sale of the remaining stock and he would not get any input tax credit with respect to such stock.

CIRCUMSTANCES UNDER WHICH INPUT TAX CREDIT NEEDS TO BE REVERSED:-

a) Change of registration from VAT to TOT – A person, who was earlier registered for VAT and has subsequently got himself registered for TOT, shall reverse input tax credit availed with him before such change, on the stock of goods held by him on the day, when he is registered as TOT person.

(b) Closure of business – A person shall reverse input tax credit availed by him on goods which remained in stock at the time of closure of his business.

(c) Credit note from the seller – Where the selling taxable person has made any modification (e.g. reduction in sale price) in respect of a sale by issuance of credit note, the purchasing person needs to make necessary adjustment of input tax credit availed subject to the condition that selling dealer has deposited the tax after the deduction, if the seller has deposited the tax on entire amount although any incentive was given then the input tax credit should not be reversed.

(d) Goods lost, destroyed or damaged beyond repair – Input tax credit availed on goods lost, destroyed or damaged beyond repair to be reversed on occurrence of such events.

(e) Capital goods used for manufacture of tax free goods – Input tax credit to be reversed to the extent, capital goods has been used in respect of manufacture of tax free goods or for processing of such goods.

The input tax credit to a purchaser cannot be denied merely on filing of an affidavit by the seller is like the cutting of blood supply artery and the formula no sale – no purchase. Matter ends hitting the case at rock bottom, the ultimate aim and object of sly boots doing things with artful dexterity. The Hon'ble Supreme Court of India in the case of State of Kerela vs. K.T. Shaduli Yusuff – 39 STC 478 (SC), the Hon'ble Punjab and Haryana High Court in the case of Pahar Chand & Sons vs. The State of Punjab – 30 STC 211 (P&H) and recently the Hon'ble VAT Tribunal in the case of Malkeet Trading Company vs. State of Punjab – 39 PHT 150 (PVT) clinches the issue.

The Hon'ble Punjab & Haryana High Court in **CWP No.4087 of 1977** decided on 21.01.1978 held as under:-

“The main grouse of the petitioner in this case is, that the Assessing Authority has not summoned the commission agents, rather has refused to summon those persons and is going to finalize the assessment on the basis of evidence collected behind his back. Under S. 11 of the Punjab General Sales Tax Act, 1948 (hereinafter referred to as the Act), the dealer has a right to produce evidence of cause to be produced, any evidence in support of the return filed by him. The contention of the respondents is that the petitioner has not adduced any evidence to show that the transfer of goods to him by the commission agents was as a result of contract of agency and not of a sale. Since the dealer has a statutory right to produce evidence, so it is directed that the Assessing Authority shall give an opportunity to the dealer to produce his evidence or cause to be produced any evidence in support of his return and incase the Assessing Authority also feels to produce some evidence, it may do so under S.11 (3) of the Act it shall then decide the case in accordance with law. The assessing authority shall fix a date giving a reasonable time to the dealer to produce his evidence and thereafter it shall decide the case. With the aforesaid direction this petition is disposed of. If the dealer wants to summon the witnesses, the department will summon the witnesses in accordance with Rule 65 of the Punjab General Sales Tax Rules. The petitioner will appear before the Assessing Authority on January 17, 1978, on which date the petitioner will submit an application for the summoning of witnesses, if so desired.”

Recently the Hon'ble Judges of the Hon'ble Punjab & Haryana High Court has clinched the issue by passing a landmark judgment reported in 40 PHT, page 145 regarding denial of input tax credit by the Assessing Authority on the ground that the dealer from whom the assessee has purchased goods have not deposited full tax in the Government Treasury. No liability can be fastened on the purchasing registered dealer on account of non-payment of tax by the selling registered dealer in the Government Treasury unless fraudulent or collusion or connivance with the registered selling dealer or its predecessors is established.

If the purchasing registered dealer produces the bill issued by the registered dealer, then his burden is discharged and he cannot be held responsible or forced to go around from pillar to post to collect the material in order to get the record. Rather it is the duty of the Assessing Authority to obtain the necessary particulars if any suspicion arises in the mind of the Assessing Authority. Selling registered dealer who collect tax from the purchasing registered dealer acts as an agent for the Government and is duty bound to deposit the same in the Government Treasury.

Work Contract Tax & Tax Deducted At Source

“**works contract**” includes any agreement for carrying out, for cash, deferred payment or other valuable consideration, building ,construction, manufacturing, processing, fabrication, erection, installation, fitting out, improvement, modification, repairs or commissioning of any movable or immovable property;

As per the scheme of Punjab Value Added Tax Act, 2005 every contractee except individual and HUF not registered under VAT is under an obligation to deduct 5% while making the payment to the contractor if the amount exceeds Rs. 5 Lacs in a single contract payable for transfer of property of goods in pursuance of works contract. Beside this contractee is under an obligation to furnish particulars of contract along with VAT 25 within 30 days of contract before the Designated Officer. Further contractee is under an obligation to make an application for Tax Deduction Number within 30 days of his liability to deduct tax in Form VAT 26 after obtaining the Tax Deduction Number contractee shall deposit such tax within 15 days from the close of each month Further Contractee is to furnish a monthly statement in Form VAT 27 within 15 days after deposit of tax. The contractee will issue certificate in Form 28 to the Contractor for the amount deducted and deposited in the Govt. Treasury. Here it is pertinent to point out if contractee failed to deduct or deposit tax then he is to pay penalty equal to the amount of such tax in addition to the simple interest @1.5% per month of such tax.

That Contractor who is awarded with the contract is under an obligation to obtain Registration in State of Punjab so that he may avail the benefit of Tax Deducted by the Contractee here it is pertinent to point out that there are different parameters for calculation of tax liability in case of works contract qua for the reason if contractor maintains the account books then he can avail ITC on the purchase of goods within the state of Punjab and liable to pay tax on the rates mentioned in different schedules after claiming the deduction prescribed under Rule 15(4) of Punjab Value Added Tax Rules, 2005 but if Contractor has not maintained account to determine the correct value of goods then he is liable to pay tax at the rate of 12.5% on the total consideration received or receivable subject to the deductions specified in table attached to Rule 15(6) of the Punjab Value Added Tax Rules, 2005. here it is worthwhile to mention that under these circumstances contractor is not eligible to claim ITC and shall not eligible to issue VAT Invoice

That the law is well settled by now. Inter–State purchase of goods meant for use in the execution of works contract cannot be subjected to levy tax under the Punjab Value Added Tax Act, 2005. The Hon’ble Supreme Court of India in the case of **Gannon Dunkerley & Co. vs. State of Rajasthan** reported as (1993) 88 S.T.C. 204 at page 231 has held as under:–

“it is not permissible for the State Legislature to make a law imposing tax on such a deemed sale which constitutes a sale in the course of inter-State trade or commerce under Section 3 of the Central Sales Tax Act or an outside sale under Section 4 of the Central Sales Tax Act or sale in the course of import or export under Section 5 of the Central Sales Tax Act. So also it is not permissible for the State Legislature to impose a tax on goods declared to be of special importance in inter-State trade or commerce under Section 14 of the Central Sales Tax Act except in accordance with the restrictions and conditions contained in Section 15 of the Central Sales Tax Act.

The Hon’ble Supreme Court of India further held that:–

The location of the situs of the sale in sales tax legislation of the State, would, therefore, have no bearing or the chargeability of tax on sales in the course of inter-State trade or commerce since they fall outside the field of legislative competence of the State Legislatures and will have to be excluded while assessing the tax liability under the State legislation.”

Further the Hon’ble Gauhati High Court in the case of **Projects and Services Centre vs. State of Tripura** reported as (1991) 82 S.T.C. 89 (Gau) has held as under:–

“In view of the aforesaid decisions of the Supreme Court it is clear that the sale in the instant case was an inter–State sale. The fact that the use of the materials was made in a works contract in the State of Tripura did not in any way affect the inter–State nature of the transaction. Evidently, the decisions of the Superintendent of Taxes holding the sale in the instant case as intra–State sale on the ground that the property therein passed to the buyer in the State of Tripura goes counter to the law laid down by the Supreme Court. As indicated above, the place of delivery or the place where the property in the goods passes is not material for determining whether the sale was an inter–State sale.”

Similar view has been taken by the Hon’ble Allahabad High Court in the case of **Commissioner, Trade Tax vs. Indus Food Products and Equipments Limited** reported as (2009) 34 PHT 25 (All.), wherein the following has been held:–

“Where the property and goods brought from outside the State can be ascertained and amount representing the sale value of goods covered by Section 3, 4 and 5 of Central Sales Tax Act, 1956 can be separated from the cost of fabrication and transfer of goods, the State does not have the authority to levy trade tax on such goods. Section 3F charges tax on the right to use any goods or goods involved in the execution of works contract in the State of UP. The goods brought from outside the State and covered by Section 3, 4 and 5 of the Central Sales Tax Act, 1956 would not be subject to tax, even if they are included in the execution of the works contract. The fact the nature of the works contract provided for transfer of the property and the goods after they were fabricated and the trial run was complete, would by itself not amount transfer of the fabricated goods, in the State of UP.”

In the above judgment earlier judgment of the Division bench of the Allahabad High Court in the case of Santosh and Co., New Delhi vs. CST reported as 1999 NTN (Vol. 15) 604 stands relied upon.

It may be added that the definition of the term “sale” under the Central Sales Tax Act, 1956 was also substituted vide Finance Act, 2002 w.e.f. 11.05.2002 by deeming fiction transfer of property in goods (whether as goods or in some other form) involved in the execution of works contract is included in the definition of the term “sale”. This further supports the above view.

Section 27

(1) Notwithstanding anything contained in any of the provisions of this Act, every contractee responsible for making payment to any person (hereinafter in this section referred to as the contractor) for discharge of any liability on account of valuable consideration, exceeding rupees five lac in a single contract payable for the transfer of property in goods (whether as goods or in some other form) in pursuance of a works contract, shall, at the time of making such payment to the contractor either in cash or in any other manner, deduct an amount equal to two per cent of such sum towards the tax payable under this Act on account of such contract:

Provided that any individual or Hindu undivided family not registered under this Act, shall not be liable for deduction of such tax.

(2) Any contractor responsible for making any payment or discharge of any liability to any sub-contractor or in pursuance of a contract with the sub-contractor, for the transfer of property in goods (whether as goods or in some other form) involved in the execution whether wholly or in part, of the work undertaken by the contractor, shall, at the time of such payment or discharge, in cash or by cheque or draft or by any other mode, deduct an amount, equal to two per cent of such payment or discharge, purporting to be a part of the tax, payable under this Act on such transfer, from the bills or invoices raised by the sub-contractor, as payable by the contractor.

(3) Every person liable to deduct tax at source under sub-section (1) or sub-section (2), as the case may be, shall make an application in the prescribed manner to the designated officer for allotment of Tax Deduction Number. The designated officer, after satisfying that the application is in order, shall allot Tax Deduction Number.

(4) The amount deducted under sub-section (1) or sub-section (2), as the case may be, shall be deposited into the Government Treasury by the person making such deduction in the prescribed manner and shall also file a return of tax deduction and payment thereof in such form and in such manner, as may be prescribed.

(5) Any deduction made in accordance with the provisions of this section and credited into the Government Treasury, shall be treated as payment towards the tax payable on behalf of the person from whose bills and invoices, the deduction has been made and credit shall be given to him for the amount so deducted on the production of the certificate, in the prescribed form in this regard.

(6) If any contractee or the contractor, as is referred to in sub-section (1) or sub-section (2), as the case may be, fails to make the deduction or after deducting such amount fails to deposit the amount so deducted, the designated officer may, after giving an opportunity of being heard, by order in writing, direct that the contractee or the contractor shall pay, by way of penalty, a sum,

equal to the amount deductible under this section, but not so deducted, and if deducted, not so deposited into the Government Treasury.

(7) Without prejudice to the provision of sub-section (6), if any contractee or the contractor, as the case may be, fails to make the deduction or after deducting, fails to deposit the amount so deducted, he shall be liable to pay simple interest at the rate of one and half per cent per month on the amount deductible under this section, but not so deducted and, if deducted, but not so deposited, from the date on which such amount was deductible to the date, on which such amount is actually deposited.

(8) Where the amount has not been deposited after deduction, such amount together with interest referred to in sub-section (7), shall be a charge upon all the assets of the person concerned.

(9) Payment by way of deduction in accordance with sub-section (1) or sub-section (2), shall be without prejudice to any other mode of recovery of tax, due under this Act from the contractor or the sub-contractor, as the case may be.

(10) Where on an application being made by any contractor or sub-contractor, the Commissioner or designated officer is satisfied that no deduction of tax or deduction of tax at a lower rate is justified, he shall grant him such certificate permitting no deduction of tax or deduction of tax at a lower rate, as the case may be. On furnishing of such certificate, the person responsible for deduction of tax, shall comply with such certificate.

Rule 15 + sections 15,16,17 and 19. Determination of taxable turnover by a person.–(1) To determine the taxable turnover of sales, a person, shall deduct from his gross turnover of sales, the following :-

(a) turnover of sales of goods, declared tax free under section 16 of the Act;

(b) turnover of sales of goods, made outside the State or in the course of inter-state trade or commerce or in the course of import of goods into or export of goods out of the territory of India under section 84 of the Act;

(c) turnover of goods, sent on consignment basis or branch transfers;

(d) amount, charged separately as interest in the case of a hire-purchase transaction or any system of payment by installments;

(e) amount, allowed as cash discount and trade discount, provided such discount is in accordance with the regular trade practice;

(f) sale price of taxable goods where such sale was cancelled:

Provided that the deduction shall be claimed only, if the person is in possession of all copies of VAT invoice or Retail invoice.

(g) sale price, in respect of any goods , returned within a period of six months:

Provided that a taxable person shall claim the deduction only on the basis of debit note, issued by the purchaser for the goods returned; and

(h) a sum, to be calculated by applying a tax fraction in case, gross turnover includes retail sales.

(2) The deduction referred to in clauses (e), (f) and (g) of sub-rule (1), shall be claimed in the tax period in which the event occurs:

Provided that if the turnover of the period is less than the claim, then the balance of such deduction, shall be claimed in the immediate subsequent period.

(3) The provisions of clauses (a) to (g) of sub-rule (1), shall also apply for determination of taxable turnover of purchases for levy of purchase tax under sections 19 and 20 of the Act. (4) The value of the goods, involved in the execution of a works contract, shall be determined by taking into account the value of the entire works contract by deducting there-from the components of payment, made towards labour and services, including —

(a) labour charges for execution of the works;

(b) amount paid to a sub-contractor for labour and services;

(c) charges for planning, designing and architect's fees;

(d) charges for obtaining for hire, machinery and tools used for the execution of the works contract;

(e) cost of consumables, such as, water, electricity and fuel, used in the execution of the works contract, the property, which is not transferred in the course of execution of a works contract;

(f) cost of establishment of the contractor to the extent, it is relatable to the supply of labour and services;

(g) other similar expenses relatable to supply of labour and services and;

(h) profit earned by the contractor to the extent, it is relatable to the supply of labour and services.

(5) The amounts deductible under sub clauses (c) to (h) of sub rule (4), shall be determined in the light of the facts of a particular case on the basis of the material produced by the contractor.

(6) Where the contractor has not maintained the accounts to determine the correct value of the goods at the time of incorporation or deductions being claimed under sub-rule 4 are considered to be unreasonably high in view of the nature of contract, he shall pay tax at the rate of twelve and a half percent on the total consideration received or receivable, subject to the deductions

specified in the table below. In such cases the contractor shall not be eligible to claim input tax credit and shall not be eligible to issue VAT Invoice

TABLE

Serial. No.	Type of contract	Percentage of the total value eligible for deduction
1	(a) Electrical Contracts:-	
	(i) H.T Transmission lines;	Twenty percent
	(ii) Sub-station equipment;	Fifteen percent
	(iii) Power house equipment and extensions;	Fifteen percent
	(iv) 11 and 22 KV and L.T distribution lines 12+5; and	Seventeen percent
	(v) All other electrical contracts.	Twenty five percent
	(b) All structural contracts	Thirty five percent
2	Installation of plant and machinery.	Fifteen percent
3	Fixing of marble slabs, polished granite stones and tiles (other than mosaic tiles.)	Twenty five percent
4	Civil works like construction of buildings, bridges, roads etc.	Thirty percent
5	Fixing of sanitary fittings for plumbing, drainage and the like.	Fifteen percent
6	Fabrication and erection of structural works of iron and steel including fabrication, supply and erection of Iron trusses, purlins and the like.	Fifteen percent
7	Fabrication and installation of cranes and hoists.	Fifteen percent
8	Fabrication and installation of elevators (lifts) and escalators	Fifteen percent
9	Fabrication and installation of rolling shutters and collapsible gates	Fifteen percent
10	Installation of doors, door frames, window frames and grills.	Twenty percent
11	Supply and installation of air conditioners and air coolers	Fifteen percent
12	Supply and installation of air conditioning equipments including deep freezers, cold storage plants, humidification plants and dehumidres.	Fifteen percent
13	Supply and fixing of furniture and fixtures, partitions including contracts for interior decorators and false ceiling.	Twenty percent
14	Construction of Railway coaches and wagons on under carriages supplied by Railways.	Thirty percent
15	Construction of mounting of bodies of motor vehicles and construction of trailers.	Twenty percent
16	Supply and erection of weighing machines and weigh bridges.	Fifteen percent
17	Painting, Polishing and White Washing.	Twenty five percent
18	Laying of pipes.	Twenty percent
19	Tyre retreading	Forty percent
20	Dyeing and printing of textiles	Forty percent

21	Printing of reading material, cards, pamphlets, posters and office stationery.	Forty percent
22	All other contracts.	Thirty percent”

Rule 46. Liability of persons in case of works contract.–(1) A person entering into a contract with a contractor or a contractor entering into a contract with a sub-contractor for transfer of property in goods in execution of a works contract, shall furnish to the commissioner or the designated officer, particulars of such contract in Form VAT-25 within a period of thirty days from the date of entering into such contract.

(2) A person entering into a contract with a contractor or a contractor entering into a contract with a sub-contractor for transfer of property in goods for execution of a works contract, who is also liable for deduction of tax, shall within a period of thirty days of accruing his liability to deduct the tax, make an application, complete in all respects to the designated officer in Form VAT-26, for allotment of tax deduction number. The designated officer shall allot tax deduction number to the person concerned within a period of seven days from the receipt of the application.

(3) The tax deducted under the Act, shall be deposited by the person deducting the tax through a challan in Form “VAT-2” in the appropriate Government Treasury within a period of fifteen days from the close of each month.

A monthly statement of the deposits made under sub-rule (3), shall be furnished by the persons concerned in Form “VAT-27” alongwith the proof of payment within a period of fifteen days after the date of deposit.

(5) The person deducting the tax, shall issue a certificate of such tax deduction at source in Form VAT – 28, which shall entitle the contractor to claim credit for such amount in the return.

E Commerce Transaction

Concept of e-commerce transaction is still not introduced under the Punjab Value Added Tax Act, 2005.

Fee Under Punjab Value Added Tax Act, 2005

Particulars	Section	Rule	Fee Amount (Rs.)
VAT or TOT Registration	21,22	3	2000
Issue of duplicate Registration Certificate	21,22	6	100
Cancellation of Registration Certificate	24	12	Nil
Any Amendment in the Registration Certificate	23,70,71,76, 77	87, 11, 12	100
Permission for business by a casual dealer	31	28	500
Issue of one VAT 36 Form, Declaration for transport of goods to and from Punjab	51	65	10

Filing of a memorandum of Appeal	70, 71	87	100
Application for revision to Commissioner/ Tribunal	70, 71	87	100
Inspection of records of personal file or inspection of any entry	70, 71	87	100
Obtaining copies of records	70, 71	87	100
Search of record for any year	70, 71	87	100
Obtaining copy of any entry in the register maintained under VAT Rules	70, 71	87	100
Obtaining copy of every notice or any summon issued by a designated officer	70, 71	87	100
Obtaining copy of every return or additional certified copy of an order of assessment of tax	70, 71	87	100
Obtaining a copy of any other document of which copy is permissible under Act	70, 71	87	100
Determination of disputed question	70,71, 85	89	2500
CST Registration	7	4	25

Assessment, Audit, Appeal, Revision & Refund

Assessment

As per the Scheme of Punjab Value Added Tax Act, 2005 Section 29(1) deals with self assessment beside this Section 29(2) read with Section 29(4) deals with best judgment assessment and in Section 29(3) Commissioner by an order in writing direct the Designated Officer to make an assessment. Here it is pertinent to point out that assessment U/s 29(2) and 29(3) should be framed within a period of 3 years after the date when annual statement was filed or due to be filed provided under special circumstances the commissioner can extend time for framing an assessment after 3 years but not later than 6 years. That the Hon'ble VAT Tribunal while deciding the case of M/s Babaji Rice Mills Vs. State of Punjab has accepted the appeal of the appellant on the solitary ground of limitation as in the present case assessment was framed after a period of 3 years.

Section 29(7) read with Rule 49 deals with amendment of assessment by the Designated Officer within a period of 3 years from the date of assessment order after obtaining the prior permission of the commissioner.

Section 29(8) deals with rectification of assessment in the cases where there is a mistake apparent from the record. Rectification can be made within a period of one year from the date of assessment order.

Section 29. (1) Where a return has been filed under sub section (1) or sub-section (2) of section 26 or in response to a notice under sub section (6) of section 26, if any tax or interest is found due on the basis of such return, after adjustment of any tax paid on self-assessment and any amount paid otherwise by way of tax or interest, then, without prejudice to the provisions of sub-section (2), an intimation shall be sent to the person specifying the sum so payable, and such

intimation shall be deemed to be a notice of demand issued under sub-section (11) and all the provisions of this Act shall apply accordingly :

Provided that except as otherwise provided in this sub-section, the acknowledgment of the return shall be deemed to be an intimation under this sub-section in case, either no sum is payable by the person or no refund is due to him:

Provided further that no intimation under this sub-section shall be sent after the expiry of one year from the end of financial year in which the return is filed.

(2) Notwithstanding anything contained in sub-section (1), the Commissioner or the designated officer, as the case may be, may, on his own motion or on the basis of information received by him, order or make an assessment of the tax, payable by a person to the best of his judgement and determine the tax payable by him, where, -

(a) a person fails to file a return under section 26 ; or

(b) there are definite reasons to believe that a return filed by a person is not correct and complete; or

(c) there are reasonable grounds to believe that a person is liable to pay tax, but has failed to pay the amount due; or

(d) a person has availed input tax credit for which he is not eligible; or

(e) provisional assessment is framed.

(3) The Commissioner on his own motion or on the basis of information received by him may, by an order in writing, direct the designated officer to make an assessment of the amount of tax payable by any person or any class of persons for such period, as he may specify in his order.

(4) An assessment under sub-section (2) or sub-section (3), may be made within three years after the date when the annual statement was filed or due to be filed, whichever is later:

Provided that where circumstances so warrant, the Commissioner may, by an order in writing, allow assessment of a taxable person or of a registered person after three years, but not later than six years from the date, when annual statement was filed or due to be filed by such person, whichever is later.

(5) Where an assessment is to be made under this section, the designated officer shall, serve a notice to the person to be assessed and such notice shall state-

(a) the grounds for the proposed assessment; and

(b) the time, place and manner for filing objections, if any.

(6) The designated officer, after taking into account all relevant material, which the officer has gathered, shall on the day specified in the notice issued under sub-section (5) or as soon afterwards as may be, after hearing such evidence, as the assessee may produce, by an order in writing, make an assessment determining the sum payable or refund of any sum due to him on the basis of such assessment.

(7) The designated officer may, with the prior permission of the Commissioner, within a period of three years from the date of the assessment order, amend an assessment, made under sub-section (2) or sub-section (3), if he discovers under-assessment of tax, payable by a person for the reason that,-

(a) such a person has committed fraud or wilful neglect; or

(b) such a person has misrepresented facts; or

(c) a part of the turnover has escaped assessment:

Provided that no order amending such assessment, shall be made without affording an opportunity of being heard to the affected person.

(8) The designated officer may, within a period of one year from the date of the assessment order, rectify an assessment, made under sub-section (2) or sub-section (3), if he discovers that there is a mistake apparent from record:

Provided that no order rectifying such assessment shall be made without affording an opportunity of being heard to the affected person.

(9) An assessment under sub-sections (7) and (8) shall be an assessment made under this Act for all intents and purposes.

(10) No assessment or other proceedings purported to be made, or executed under this Act or the rules made thereunder, shall be, -

(a) quashed or deemed to be void only for the reason that the same were not in the prescribed form; or

(b) affected by reason of a mistake, defect or omission therein:

Provided that such an assessment is substantially in conformity with this Act or according to the intent and meaning of this Act and the rules made thereunder.

(11) When any tax, interest, penalty or any other sum is payable in consequence of any order passed under this Act, the designated officer shall serve upon the person a notice of demand in the prescribed form specifying the sum so payable.

Rule 47. Notice and manner of assessment .-(1) For the purpose of assessment or provisional assessment of a person, a notice shall be issued , which shall clearly state the grounds for the proposed assessment, period of assessment, the date, time and place, fixed for such assessment. The notice shall provide a time period of not less than ten days for production of such accounts and documents as may be specified in the notice.

(2) A person, who has been served a notice under sub-rule (1), shall produce on the specified date and time accounts and documents, as mentioned in the notice together with objection, if any, in writing, which the person may wish to prefer, alongwith the evidence, which he may, wish to produce in support thereof.

Rule 49. Amendment of assessment.—For the purpose of amendment of assessment under sub-section (7) of section 29, a notice shall be issued by the designated officer, to the person, clearly stating the grounds for the proposed amendment, the date, time and place ,fixed for such amended assessment. After hearing , the person concerned and making such enquiry, as the designated officer may consider necessary, he may proceed to amend the orders as he deems fit subject, however , to the following conditions, namely :-

(a) No amendment, which has the effect of enhancing the amount of tax, shall be made by the designated officer, unless he has given notice to the person concerned of its intention to do so and has allowed him a reasonable opportunity of being heard.

(b) Where such amendment has the effect of enhancing the amount of the tax or penalty , the designated officer, shall serve on the person a Tax Demand Notice in Form VAT – 56 as required under sub-section (11) of section 29 and thereupon , the provisions of the Act and these rules shall apply, as if such notice had been served in the first instance.

(c) Where any amendment made under sub-section (7) of section 29 has the effect of reducing the tax or penalty, the designated officer shall order refund of the amount, which may be due to the person and the procedure for refund laid down in rule 52 shall apply.

Provisional assessment. (Section 30)

Provisional assessment can be made even prior to the filing of annual statement where Designated Officer is of the view that fraud or will full neglect has been committed with a view to evade or avoid payment of tax or due tax has not been paid or return has not been filed. Here it is pertinent to point out that provisional assessment can be made within a period of 6 months from the date of detection but under certain circumstances the commissioner can extend the said period by another 6 months.

Section 30. (1) Notwithstanding anything contained in section 29, where fraud or willful neglect has been committed with a view to evade or avoid the payment of tax or due tax has not been paid or a return has not been filed by or on behalf of a person, the designated officer may, for the reasons to be recorded in writing, make provisional assessment for any period to determine the tax liability so evaded, avoided or unpaid:

Provided that tax liability of such a person shall be assessed finally after he files his return in the prescribed manner.

(2) The provisional assessment under sub-section (1) shall be made within a period of six months from the date of detection. The Commissioner may, however, for reasons to be recorded in writing, extend the said period by another six months in a particular case referred to him by the designated officer.

Audit

Audit can be conducted by commissioner or the Designated Officer under Section 28 of the Punjab Value Added Tax Act, 2005 just to verify the correctness of the returns and to check the leakage of the revenue. Time limit for audit is 6 years. The audit can be conducted by an officer or team of officer after giving intimation by serving a notice which should be served atleast 10 days before the scheduled date of audit. The selection of assessee for audit is to be done by the commissioner in some scientific manner.

Section 28. (1) The Commissioner or the designated officer with a view to ascertain the correctness of the returns in general and admissibility of various claims, including input tax credit and refund, may audit or cause to be audited, any of the returns filed, documents or information or statutory forms submitted by a person, subject to such conditions and in such manner, as may be prescribed.

(2) For the purpose of audit under sub-section (1), the Commissioner or any designated officer, may, after due notice to the person to be audited, proceed to examine the records, stock in trade and the related documents of the person. Such examination of records can be undertaken in any office of the Excise and Taxation Department of the State or at the business premises of the person.

(3) The audit under sub-section (1), may be carried out within a period of six years from the date of furnishing of returns.

Rule 44. Selection of persons for audit.— (1) The Commissioner shall select, on the basis of the parameters as may be laid down by him, a certain number of persons for audit under section 28 :

Provided that the Commissioner may, upon receipt of information or otherwise, select those persons for audit, who, according to him, are required for audit.

(2) The audit, shall be performed by an officer or a team of officers consisting such officers as may be deemed fit by the Commissioner.

(3) The audit may be made for one period or for more than one return periods.section 28.

Rule 45. Audit of returns, accounts, etc.—(1) For the purposes of audit of returns, annual statement and accounts, the Commissioner or the designated officer or any other officer

authorised to do so ,may require any person to produce evidence for verification of correctness of any return and any other additional information as may be considered necessary.

section 28.(2)The Commissionner or the designated officer or any other officer authorized to do so, as the case may be , shall issue a notice of not less than ten days to the person concerned for production of account books on such date, time and place, as may be specified in the notice. (3) A person, who has been served notice under sub-rule (2), shall produce on the specified date and time such account books, as are mentioned in the notice. (4) During the course of audit, the person concerned shall provide to the Commissioner as the designated officer or any other officer authorized to do so, all necessary facilities for conducting the audit. The person concerned shall also provide every such information, as may be required by the officer conducting the audit.

Appeal

The right of appeal is neither a fundamental right nor a constitutional one. The right of appeal is mere creature of the statutes. Section 62 and 63 of the Punjab VAT Act deals with the appeal to Deputy Excise & Taxation Commissioner, and Tribunal Respectively. Aggrieved person can file an appeal against the order by depositing 25% of the Tax penalty and interest beside this the appeal is to be filed within a period of 30 days whereas Section 68 deals with the appeals to High Court

First appeal

If the Original Order is	Appeal to
Order of Excise & Taxation Officer, Officer incharge of ICC or Check post	Deputy Excise & Taxation Commissioner, Deputy Excise & Taxation Commissioner,
Officer below rank of Deputy Excise & Taxation Commissioner,	Deputy Excise & Taxation Commissioner,
Order of Deputy Excise & Taxation Commissioner,	Tribunal
Order of Commissioner or any officer exercising power of the Commissioner	Tribunal

Second appeal

If the Order in appeal is passed by	Appeal to
Deputy Excise & Taxation Commissioner (A)	Tribunal
Excise & Taxation Commissioner (A)	Tribunal

Time limit for filing of Appeal

Appeal can be filed within a period of 30 days from the date of Communication of order against which appeal is to be filed.

Appeal or Revision to High Court

An appeal or revision shall lie to High Court from every order passed in appeal or revision by the Tribunal if the High Court is satisfied that the case involves substantial question of Law. The state or Appellant whosoever is aggrieved can file an appeal

Time limit for filing of Appeal to High Court

Appeal can be filed within a period of 60 days from the date of Communication of order against which appeal is to be filed.

Section 62. (1) An appeal against every original order passed under this Act or the rules made thereunder shall lie, -

(a) if the order is made by a Excise and Taxation Officer or by an officer-Incharge of the information collection centre or check post or any other officer below the rank of Deputy Excise and Taxation Commissioner, to the Deputy Excise and Taxation Commissioner; or

(b) if the order is made by the Deputy Excise and Taxation Commissioner, to the Commissioner; or

(c) if the order is made by the Commissioner or any officer exercising the powers of the Commissioner, to the Tribunal.

(2) An order passed in appeal by a Deputy Excise and Taxation Commissioner or by the Commissioner or any officer on whom the powers of the Commissioner are conferred, shall be further appeal-able to the Tribunal.

(3) Every order of the Tribunal and subject only to such order, the order of the Commissioner or any officer exercising the powers of the Commissioner or the order of the Deputy Excise and Taxation Commissioner or of the designated officer, if it was not challenged in appeal or revision, shall be final.

(4) No appeal shall be entertained, unless it is filed within a period of thirty days from the date of communication of the order appealed against.

(5) No appeal shall be entertained, unless such appeal is accompanied by satisfactory proof of the prior minimum payment of twenty-five per cent of the total amount of tax, penalty and interest, if any.

(6) In deciding an appeal, the appellate authority, after affording an opportunity of being heard to the parties, shall make an order -

(a) affirming or amending or canceling the assessment or the order under appeal; or

(b) may pass such order, as it deems to be just and proper.

(7) The appellate authority shall pass a speaking order while deciding an appeal and send copies of the order to the appellant and the officer whose order was a subject matter of appeal.

Appeal to the Tribunal.

Section 63. (1) A person or authorized officer of the State Government, feeling aggrieved with the order of the Appellate Authority, made under this Act, may file an appeal before the Tribunal.

(2) The appeal can be filed within a period of thirty days from the date of the communication of the order of the first Appellate Authority.

(3) The Tribunal may, on an application made by the appellant, order the stay of the recovery of the amount involved, subject to the payment of minimum twenty five per cent of the amount and fulfillment of such other conditions, as it may deem necessary.

(4) In deciding an appeal, the Tribunal, after affording an opportunity of being heard to the parties may, make an order –

(a) affirming or amending or canceling the order against which appeal has been filed; or

(b) may pass such order as it deems to be just and proper.

(5) The Tribunal shall pass a speaking order while deciding an appeal and send copies of the order to the appellant and the Commissioner.

Revision

Section 65. (1) The Commissioner or the designated officer may, at his own motion, call for the record of any proceedings, which are pending before or have been disposed of by any authority subordinate to him for the purpose of satisfying himself as to the legality or propriety of such proceedings or order made therein and may pass such order in relation thereto, as he may think fit.

(2) A Tribunal, on application made to it against an order of the Commissioner under sub-section (1), within a period of thirty days from the date of communication of the order, may call for and examine the record of any such case and pass such order thereon, as it thinks just and proper.

(3) No application for revision under sub-section (2), shall be entertained unless such application is accompanied by satisfactory proof of the prior minimum payment of twenty -five per cent of the total amount of tax, penalty and interest, if any.

(4) No order shall be passed under this section, which adversely affects any person unless such person has been given an opportunity of being heard.

Appeal or revision to High Court

Section 68. (1) An appeal or revision shall lie to the High Court from every order passed in appeal or revision by the Tribunal, if the High Court is satisfied that the case involves a substantial question of law.

(2) The Commissioner or a person aggrieved by any order passed by the Tribunal, may file an appeal to the High Court and such appeal shall be –

(a) filed within a period of sixty days from the date on which the order appealed against is received by the aggrieved person or the Commissioner; and

(b) in the form of a memorandum of appeal, precisely stating therein the substantial question of law involved.

(3) Where the High Court is satisfied that a substantial question of law is involved in any case, it shall formulate that question.

(4) The appeal or revision shall be heard only on the question so formulated, and the respondents shall, at the hearing of the appeal or revision, be allowed to argue that the case does not involve such question:

Provided that nothing in this section shall be deemed to take away or abridge the power of the High Court to hear, for reasons to be recorded, the appeal or revision on any other substantial question of law, not formulated by it, if it is satisfied that the case involves such question.

(5) The High Court shall decide the question of law, so formulated and deliver such judgment thereon containing the grounds on which such decision is founded and may award such cost as it deems fit.

(6) The High Court may determine any issue which -


(a) has not been determined by the Tribunal; or

(b) has been wrongly determined by the Tribunal, by reason of a decision on such question of law as is referred to in sub-section(1).

(7) The payment of any amount, due to be paid by a person, in accordance with the order of the Tribunal in respect of which an appeal has been preferred under this section, shall not be stayed by the High Court pending the final disposal of such appeal, but if such amount is reduced as the result of such appeal, the excess tax, penalty, interest or sum forfeited, shall be refunded in accordance with the provisions of section 39 of this Act.

Save as otherwise provided in this Act, the provisions of the Code of Civil Procedure, 1908, (5 of 1908) relating to appeals to the High Court shall, as far as may be, apply in the case of appeals or revisions under this Section

Rule 71. Appeal.– (1) An appeal against every original order referred section 62 and 63.

to in section 62, shall contain the following particulars and information, namely :-	
(a) the name and address of the appellant;(b) the date of the order against which an appeal is made;(c) the authority against whose orders , the appeal is made;(d) a clear statement of facts and grounds of appeal;	
(e) reasons for the delay in appeal, if any;	
(f) the relief prayed for; and	
(g) signatures and verification by the appellant or by an agent duly authorised by him in that behalf in the following form, namely:- “I, _____ Proprietor/Partner/ Director/ Agent, appointed by the appellant named in the above memorandum of appeal, do hereby declare that the facts as stated above ,are true to the best of my knowledge and belief. (Signature)”	
(2) The memorandum of appeal, shall be submitted along with the original order, against which it is made or duly authenticated copy thereof, unless the omission to produce such order or copy is explained at the time of the presentation of appeal to the satisfaction of the appellate authority.	
(3) Receipt for statutory payment of twenty five per cent of the amount, shall also be submitted with the memorandum of appeal.	
(4) The memorandum of appeal shall either be presented by the appellant or his agent to the appellate or be sent by registered post.	
72. Summary rejection. – (1) If, memorandum of appeal is not filed as per provisions of rule 71 the appeal shall be entertained.(2) The appellate authority may dismiss an appeal by an order in writing, if it is not filed within the stipulated period of thirty days  rovided that the appellate authority may , in the interest of justice, for the reasons to be recorded in writing, condone the delay in cases where appeal is not filed within the stipulated period ;Provided further that before dismissing an appeal, the appellant shall be given a reasonable opportunity of being heard and the order of dismissing the appeal, shall be made in writing by recording the reasons therefore.	section 62.
73. Hearing of appeal,–(1) (a) If an appeal is not dismissed summarily, a reasonable opportunity of being heard to the parties concerned shall be afforded by the appellate authority.2. A copy of memorandum of the appeal shall be provided to the respondent with a view to file proper reply thereto.	section 62.
74. Stay of recovery of balance amount.—(1) while filing an appeal,	section 62.

<p>the , the appellant may submit an application to the appellate authority for staying the recovery of the balance amount of seventy five per cent by giving cogent reasons therefor.(2) The appellate authority shall dispose of the stay application within a period of thirty days from the date of its submission, failing which it shall be deemed that the recovery of the balance amount has been stayed till the disposal of the application.75. Revision, – the provisions of appeal mention in rules 71 to 74 and 77 shall mutatis mutandis apply to the revisions also.</p>	
<p>76. Transfer of appeal or revision. – The Commissioner may either suo-motu or on an application, for reasons to be recorded in writing, transfer an appeal or revision, as the case may be,at any stage of the proceedings pending before any appellate authority or revisional authority subordinate to him to another appellate or revisional authority and shall communicate the order of transfer to the appellant or the petitioner , affected by the order and to the appellate or revisional authorities concerned.</p>	section 3(3)
<p>77. Supply of certified copy .–A certified copy of every order passed by the appellate authority , the revisional authority , shall be supplied to the concerned parties free of cost:Provided that where the orders are pronounced in the absence of the parties, such ex parte orders shall be communicated to the parties.</p>	section 62.
<p>78. Appeal or revision to the Tribunal. – (1) Any person aggrieved by the order of an appellate authority or a revisional authority, may file an appeal or revision, as the case may be, to the Tribunal.</p>	section 63 and 65.
<p>(2) The provisions of rules 71 to 74 and 77 shall apply mutatis mutandis to the submission of appeal or revision, summary rejection, hearing and disposal of cases by the Tribunal, except that it shall be accompanied by five copies of memorandum of appeal.(3) Every order passed by the Tribunal shall be communicated to the Commissioner, concerned appellate authority or the revisional authority, the authority passing the original order and the appellant free of cost.</p>	
<p>79. Appeal, revision, register(s), — (1) The Appellate and the Revisional Authority, shall maintain the Institution Register, Peshi Register and Disposal Register in Form VAT-50, Form VAT-51 and Form VAT-52, respectively.(2) The designated officer, shall maintain a register of cases in which appeals have been filed and litigation in pending in Form VAT-53.</p>	Sections 62and 63.

Refund

Section 18, 39, 40, 41 and Rule 52 deals with the Refund under the Punjab Value Added Tax Act, 2005. If any amt of tax, penalty or interest paid by any person in excess of amount due or having the excess ITC over Output tax payable shall be refunded to the dealer. Refund may either be by refund voucher or at the option of person by refund adjustment order. An application

for refund shall be made to the Designated Officer in form VAT 29 which clearly reflects the grounds on which refund is claimed. There are number of circumstances under which refund is allowed which are as follows:

I) Refund on account of direct export out of India

Taxable person shall be entitled to claim refund in respect of ITC paid on goods exported out of the territory of india

II) Refund on account of indirect export.

Taxable person shall be entitled to claim refund in respect of ITC paid on goods sold to exporter against export order for the export outside the territory of India.

III) Refund arising due to Excess ITC

Taxable person shall be entitled to claim refund in respect of ITC paid on goods which is in excess of Output tax as under circumstances when there is a interstate sales or the dealer is engaged in business of manufacturing and the rate of Finished goods is lower than the raw material purchased. That in case of interstate sales refund can only be claimed when the dealer is in his possession all the declaration forms.

Refund on account of judgment of Court or an order of an authority where any order was passed in favour of dealer then he is entitled to get the refund by attaching the certified copies of the judgment along with Form VAT 29.

Refund to persons or Organisations listed in Schedule G.

The person or Organisations should be entitled to claim refund of tax exceeding Rs. 5000 excluding the tax amount on proper application.

Refund of ITC in case of exempted Units where taxable persons enjoying the benefit of exemptions purchases the goods after making the payment of tax is entitled to refund of the same.

Refund is to be issued within 60 days. The refund shall be issued within a period of 60 days from the date of submission of application of refund.

Interest on delayed Refund: Section 40 clearly casts liability on the Department to issue a refund voucher within a period of 60 days and if department failed to issue the same then dealer is entitled for the interest @ 0.5 % per month on delayed refund.

Power to withhold refund in certain cases. Designated Officer can also withhold the refund with the prior approval of the commissioner and where the refund is withheld and ultimately determined to be due to the person as a result of appeal or further proceeding or any other proceeding then dealer is entitled for the interest in accordance of provisions of Section 40.

Refund of tax to certain categories.

Section 18. (1) The persons or organizations listed in Schedule-G, shall be entitled to claim refund of tax, paid for goods, purchased in the State, on every single purchase, exceeding rupees five thousand, excluding tax amount, on proper application, subject to such conditions, as may be prescribed.

(2) A taxable person shall be entitled to claim refund in respect of input tax paid on goods exported out of the territory of India, subject to such conditions and the manner, as may be prescribed.

Penalties & Interest

Penalty

Taxation is the major source of income of the Governments. It is a human nature to pilferage the legitimate amount of tax, by the persons under liability. The object of prosecution is punishing the culprit and vindicating public justice, while penalties are imposed with a view to augment the revenues from the coffers where of the tax is leaked. The aim and object of penalty is to protect the revenue and to reimburse the Govt for the loss resulting from the fraud of the assessee and to make the tax evasion and concealment thereof unprofitable and unremunerative.

Offence	Penalty(In addition to tax and interest)	Section
Failure to Register	An Amount equal to Tax due	52, 21
Failure to Pay tax when due	A Sum @ 2% per month on tax	53
Failure to deduct/deposit TDS	A sum equal to amount deductible	27(6)
Failure to furnish return or annual statement	An amount of Rs. 100 per day subject to maximum of Rs 10000	54(a)
Failure to furnish proof of payment of tax along with the return or annual statement	An amount of Rs. 100 per day subject to maximum of Rs 10000	54(b)
Failure to rectify any error or omission in any return or annual statement	An amount of Rs. 100 per day subject to maximum of Rs 10000	54(c)
Failure to comply with requirements of any notice issued under this Act	An amount of Rs. 100 per day subject to maximum of Rs 10000	54(d)
Unauthorized collection of tax	An amount equal to 1.5 times of the tax so collected	55
Concealment of any particulars from any return in order to evade or avoid tax	An amount equal to twice the amount of tax assessed	56(a)
Furnishing incorrect particulars		56(b)
Concealment of sale or purchase transactions from account books		56(c)
Non maintenance of intelligible accounts which prevents assessment of tax due		56(d)
Claim of ITC, which is not entitled to		56(e)

Claim of Refund, which was not due		56(f)
Claim for tax credit, not actually paid		56(g)
Failure to issue invoice for any sale transaction	Higher of Rs. 2000 or double the amount of tax.	57(1), 45
Issue of or receipt of or use of a false invoice, knowingly	Higher of Rs. 5000 or double the amount of tax	57(2)
Use of false registration number or use of registration of another person	An amount equal to tax evaded	58
Provisional refund, non compliance	A sum equal to 2% per month	39(1A)
Failure to make payment of the assessed tax, interest or penalty or any other amount within 30 days of service of demand notice	A sum equal to 2% per month	59
Failure to comply with any provisions or Rules or order or direction for which no penalty is provided	An amount not exceeding Rs. 10000 subject to minimum of Rs. 1000 with additional amount of Rs. 100 per day of non compliance	60
Documents not proper/genuine at ICC	Equal to 30% of the value of goods	51(7)
Non submission of documents at ICC	Equal to 50% of the value of goods	51(7)
Failure to deliver transit-slip at exit ICC	Equal to 50% of the value of goods	51(4)

Section 51. (1) If, with a view to prevent or check avoidance or evasion of tax under this Act, the State Government considers it necessary so to do, it may, by notification, direct for the establishment of a check post or, information collection centre or both at such place or places, as may be specified in the notification.

(2) The owner or person Incharge of a goods vehicle shall carry with him a goods vehicle record, goods receipt, a trip sheet or a log-book, as the case may be, and a sale invoice or bill or cash memo, or delivery challan containing such particulars, as may be prescribed, in respect of such goods meant for the purpose of business, as are being carried in the goods vehicle and produce a copy each of the aforesaid documents to an officer Incharge of a check post or information collection centre, or any other officer not below the rank of an Excise and Taxation Officer checking the vehicle at any place:

Provided that a person selling goods from within or outside the State in the course of inter-State trade or commerce, shall also furnish or cause to be furnished a declaration with such particulars, as may be prescribed:

Provided further that a taxable person, who sells or dispatches any goods from within the State to a place outside the State or imports or brings any goods or otherwise receives goods from outside the State, shall furnish particulars of the goods in a specified form obtained from the designated officer, duly filled in and signed.

(3) At every check post or information collection centre or at any other place when so required by an officer referred to in sub-section (2), the driver or any other person Incharge of the goods vehicle shall stop the vehicle and keep it stationary, as long as may reasonably be necessary, and allow the officer Incharge of the check post or the information collection centre or the aforesaid officer to check the contents in the vehicle by breaking open the package or packages, if necessary, and inspect all records relating to the goods carried, which are in the possession of the driver or any other person, as may be required by the aforesaid officer, and if considered necessary, such officer may also search the goods vehicle and the driver or other person Incharge of the vehicle or of the goods.

(4) The owner or person Incharge of a goods vehicle entering the limits or leaving the limits of the State, shall stop at the nearest check post or information collection centre, as the case may be, and shall furnish in triplicate a declaration mentioned in sub-section (2) alongwith the documents in respect of the goods carried in such vehicle before the officer Incharge of the check post or information collection centre. The officer Incharge shall return a copy of the declaration duly verified by him to the owner or person Incharge of the goods vehicle to enable him to produce the same at the time of subsequent checking, if any:

Provided that where a goods vehicle bound for any place outside the State passes through the State, the owner or person Incharge of such vehicle shall furnish, in duplicate, to the officer Incharge of the check post or information collection centre, a declaration in respect of his entry into the State in the prescribed form and obtain from him a copy thereof duly verified. The owner or person Incharge of the goods vehicle, shall deliver within forty-eight hours the aforesaid copy to the officer Incharge of the check post or information collection centre at the point of its exit from the State, failing which, he shall be liable to pay a penalty to be imposed by an order, made by the officer incharge of the check post or information collection centre equal to fifty per cent of the value of the goods involved:

Provided further that where the goods carried by such vehicle are, after their entry into the State, transported outside the State by any other vehicle or conveyance, the burden of proving that the goods have actually moved out of the State, shall lie on the owner or person Incharge of the vehicle:

Provided further that no penalty shall be imposed unless the person concerned has been given an opportunity of being heard.

(5) At every station of transport of goods, bus stand or place of loading or unloading of goods, when so required by the Commissioner or the designated officer, the driver or the owner of the goods vehicle or the employee of transport company or goods booking agency, shall produce for examination, transport receipts and all other documents and accounts books concerning the goods carried, transported, loaded, unloaded, consigned or received for transport, maintained by him in the prescribed manner. The Commissioner or the designated officer shall, for the purpose of examining that such transport receipts or other documents or account books are in respect of the goods carried, transported, loaded, unloaded or consigned or received for transport, have the powers to break open any package, or packages of such goods.

(6) (a) If the officer Incharge of the check post or information collection centre or any other officer as mentioned in sub-section (2), has reasons to suspect that the goods under transport are meant for trade and are not covered by proper and genuine documents as mentioned in sub-section (2) or sub-section (4), or that the person transporting the goods is attempting to evade payment of tax, he may, for reasons to be recorded in writing and after hearing the person concerned, order detention of the goods alongwith the vehicle for a period not exceeding seventy-two hours. Such goods shall be released on furnishing of security or executing a bond with sureties in the prescribed form and manner by the consignor or the consignee, if registered under this Act to the satisfaction of the officer on duty and in case the consignor or the consignee is not registered under this Act, then on furnishing of a security in the form of cash or bank guarantee or crossed bank draft, which shall be equal to the amount of penalty leviable rounded upto the nearest hundred.

(a) If the owner or the person Incharge of the goods has not submitted the documents as mentioned in sub-sections (2) and (4) at the nearest check post or information collection centre, in the State, as the case may be, on his entry into or before exit from the State, such goods shall be detained alongwith the vehicle for a period not exceeding seventy-two hours subject to orders under clause (c) of sub-section (7).

(7) (a) The officer detaining the goods under sub-section (6), shall record the statement, if any, given by the consignor or consignee of the goods or his representative or the driver or other person Incharge of the goods vehicle and shall require him to prove the genuineness of the transaction before him in his office within the period of seventy-two hours of the detention. The said officer shall, immediately thereafter, submit the proceedings alongwith the concerned records to the designated officer for conducting necessary enquiry in the matter;

(b) The designated officer shall, before conducting the enquiry, serve a notice on the consignor or consignee of the goods detained under clause (a) of sub-section (6), and give him an opportunity of being heard and if, after the enquiry, such officer finds that there has been an attempt to avoid or evade the tax due or likely to be due under this Act, he shall, by order, impose on the consignor or consignee of the goods, a penalty, which shall be equal to thirty per cent of the value of the goods. In case he finds otherwise, he shall order release of the goods and the vehicle, if not already released, after recording reasons in writing and shall decide the matter finally within a period of fourteen days from the commencement of the enquiry proceedings;

(c) The officer referred to in clause (b), before conducting the enquiry, shall serve a notice on the consignor or consignee of the goods detained under clause (b) of sub-section (6) and give him an opportunity of being heard and if, after the enquiry, such officer is satisfied that the documents as required under sub-sections (2) and (4), were not furnished at the information collection centre or the check post, as the case may be, with a view to attempt to avoid or evade the tax due or likely to be due under this Act, he shall by order, for reasons to be recorded in writing, impose on the consignor or consignee of the goods, penalty equal to fifty per cent of the value of the goods involved. In case, he finds otherwise, he shall order release of the goods for sufficient reasons to be recorded in writing. He may, however, order release of the goods and the vehicle on furnishing of a security by the consignor or the consignee in the form of cash or bank guarantee or crossed bank draft for an amount equal to the amount of penalty imposable and shall decide

the matter finally within a period of fourteen days from the commencement of the enquiry proceedings;

(d) The officer incharge of a check post or information collection centre or any other officer referred to in sub-section (2), may receive the amount of cash security as referred to in clause (a) of sub-section (6) and clause (c) of sub-section (7) and the amount of penalty imposed under sub-section (4) and clauses (b) and (c) of sub-section (7) against a proper receipt in the prescribed manner.

Explanation. –The detained goods and the vehicle shall continue to be so detained beyond the period specified in sub-sections (6) and (7), unless released by the detaining officer or enquiry officer against surety or security as provided for in these sub-sections or the penalty imposed, has been realized or the enquiry officer orders release of the detained goods after enquiry, whichever is earlier.

(8) In the event of the consignor or consignee of the goods not paying the penalty imposed under sub-section (7), within thirty days from the date of the communication of the order imposing the penalty, the goods detained, shall be liable to be sold by the officer, who imposed the penalty for realization of the penalty, by public auction in the prescribed manner. If the goods detained are of perishable nature or subject to speedy or natural decay or when the expenses of keeping them in custody are likely to exceed their value, the officer Incharge of the check post or information collection centre or any other officer referred to in sub-section (2), as the case may be, shall order immediately to sell such goods or otherwise dispose them off after giving notice to the consignor or consignee in the prescribed manner. The sale proceeds shall be deposited in the State Government Treasury and the consignor or consignee of the goods shall be entitled to only the balance amount of sale proceeds after deducting the amount of penalty, interest and expenses and other incidental charges incurred in detaining and disposing of the goods:

Provided that if the consignor or consignee of the goods does not come forward to claim the goods, then the entire sale proceeds, shall be deposited in the State Government Treasury and no claim for balance amount of sale proceeds shall be entertained from any other person.

(9) The officer detaining the goods shall issue to the owner of the goods or his representative or the driver or the person Incharge of the goods vehicle, a receipt specifying the description and quantity of the goods so detained and obtain an acknowledgement from such person or if such person refuses to give an acknowledgment, then record the fact of refusal in the presence of two witnesses.

(10) If the order of detention of goods under sub-section (6) or of imposition of penalty under sub-section (4), or sub-section (7) or order under sub-section (8), is in the meantime set aside or modified in appeal or other proceedings, the officer imposing the penalty shall give effect to the orders in such appeal or other proceedings, as the case may be.

(11) No person or any individual including a carrier of goods or agent of a transport company or booking agency, acting on behalf of a taxable person or a registered person, shall take delivery of, or transport from any station, airport or any other place, whether of similar nature or otherwise, any consignment of goods, other than personal luggage or goods for personal consumption, the sale or purchase of which, is taxable under this Act, except in accordance with

such conditions, as may be prescribed, with a view to ensure that there is no avoidance or evasion of the tax imposed by or under this Act.

(12) Where a transporter fails to give information as required under sub-section (2) about the consignor or consignee of the goods, within such time, as may be specified, or transports the goods without documents or with ingenuine documents, he shall be liable to pay, in addition to the penalty leviable under this section, the tax due on such goods at the VAT rate applicable under this Act.

(13) The provisions of this Act shall, for the purpose of levy and collection of tax, determination of interest and recovery of tax and interest, apply to the transporter.

Explanation. – (1) For the purposes of this section, where goods are delivered to a carrier, a goods booking agency or any other bailee for transportation, the movement of the goods shall be deemed to commence at the time of such delivery and terminate at the time, such delivery is taken from such carrier, goods booking agency or any other bailee, as the case may be.

(2) For the purpose of sub-section (7), service of notice on the representative of the owner or the driver or other person Incharge of the goods vehicle, shall be deemed to be a valid service on the consignor or consignee of the goods.

Penalty for failure to register. (Section 52)

Whoever fails to make an application for registration, as required under sub-section (2) of section 21, shall be liable for penalty equal to the amount of tax, in addition to the tax due, and the interest payable from the date, the person becomes liable for registration as a taxable person or a registered person, as the case may be, till the application for registration is made.

Penalty for failure to pay tax when due. (Section 53)

If a person registered under this Act, fails to pay the amount of tax in accordance with the provisions of this Act, he shall be liable to pay, in addition to the tax and the interest payable by him, a penalty, at the rate of two per cent per month on the tax, so due and payable from the date, it had become due to the date of its payment, or to the date of the order of the assessment, whichever is earlier. The amount of penalty payable under this section, shall be calculated by considering a part of the month as one month.

Penalty for failure to file return or annual statement. (Section 54)

If a person registered under this Act or any other person required to furnish return or annual statement without sufficient cause -

(c) fails to furnish any return or annual statement by the prescribed date; or

(d) fails to furnish along-with the return or annual statement, the proof of payment of tax in accordance with the provisions of this Act; or

(e) fails to rectify any error or omission in any return or annual statement in accordance with the provisions of this Act; or

(f) fails to comply with the requirements of any notice issued under this Act,

the Commissioner or the designated officer, may, direct him to pay in addition to tax, interest and penalty under any other provisions of this Act, a further penalty of a sum of rupees one hundred, per day of default, subject to the maximum of rupees ten thousand.

Penalty for unauthorized collection of tax. (Section 55)

Where a person collects tax in contravention of the provisions of this Act, he shall be liable to pay by way of penalty, a sum equal to one and half times of the tax so collected.

Penalty for evasion of tax. (Section 56)

If the Commissioner or the designated officer is satisfied that the person, in order to evade or avoid payment of tax -

(a) has concealed any particulars from any return furnished by him; or

(b) has deliberately furnished incorrect particulars therein; or

(c) has concealed any transactions of sale or purchase from his account books; or

(d) has not maintained intelligible accounts, which prevent the Commissioner or the designated officer to assess the tax due from him; or

(e) has availed input tax credit to which he is not entitled to; or

(f) has claimed refund which was not due to him; or

(g) has claimed credit in respect of tax, which was not actually paid,

he shall direct that the person shall pay, by way of penalty, in addition to the tax and interest payable by him, a sum equal to twice the amount of tax, assessed on account of the aforesaid reasons.

Penalty for failure to issue invoice and use of false invoice (Section 57)

(1) A person, who fails to issue invoice for any sale transaction as required under section 45, shall be liable to pay a penalty of rupees two thousand or double the amount of tax involved in the transaction, whichever is higher.

(2) A person, who issues a false invoice or receives and uses an invoice knowing such invoice to be false, shall be liable, to pay a penalty of rupees five thousand or double the amount of tax involved in the false invoice, whichever is higher.

Penalty for misuse of registration number. (Section 58)

A person, who knowingly uses a false VAT registration number or TOT registration number, or uses a registration number of another person with a view to evade payment of due tax, he shall be liable to pay, in addition to the due tax, penalty equal to the amount of tax evaded on this account.

Penalty for non-payment of assessed demand. (Section 59)

Where a person fails to make payment of the tax assessed or interest levied or penalty imposed on him or any other amount due from him under this Act within a period of thirty days from the date of service of the notice of demand, he shall be liable, in addition to the interest and the amount due, to pay, by way of penalty, a sum equal to two per cent per month of such amount of tax, penalty, interest or any other amount due for the period for which payment has been delayed by him after the date on which such amount was due to be paid.

Penalty in cases not covered elsewhere. (Section 60)

(1) Whosoever contravenes or fails to comply with, any of the provisions of this Act or the rules made thereunder or any order or direction made or given thereunder, shall, if no other penalty is provided under this Act for such contravention or failure, be liable to pay penalty, not exceeding rupees ten thousand, subject to a minimum of rupees one thousand.

(2) Where such contravention or failure continues thereafter, the person shall be liable to pay a further penalty of rupees one hundred per day from the due date specified for payment of penalty under sub-section (1).

Authority competent to impose penalty. (Section 61)

The Commissioner or the designated officer shall be the competent authority to impose penalty under this Act. No penalty shall, however, be imposed, unless the person concerned is afforded an opportunity of being heard by serving a notice.

Rule 50. Manner of imposition of penalty for offences under the Act and payment of such penalty.-(1) Where it appears to the Commissioner or the designated officer, as the case may be, that it is necessary to proceed against a person under sections 52, 53, 54, 55, 56, 57, 58, 59 or 60, as the case may be, such officer shall serve upon such person a notice, directing him to appear before him in person or through an authorised agent and ,-

(a) to produce before him the books of accounts, registers or documents for examination;

(b) to explain the books of accounts or documents produced by such person or evidence that came into possession of any of the said officer; and

(c) to show cause on the date specified in such notice, why penalty specified as in the notice, should not be imposed on him.

(2) The person may, if he so wishes, prefer any objection in writing or he may adduce any evidence in support of his contention on the date of hearing.

(3) After examining the books of accounts, documents or evidence, produced by the person and considering his objection, the Commissioner or the designated officer, as the case may be, if satisfied with the explanation given or on the basis of the evidence, furnished, may not impose penalty. In case, no satisfactory explanation is forthcoming, the officer, shall impose penalty upon the person under the relevant section, for the amount as provided under the Act and serve a notice upon such person, directing him to make payment of the amount in accordance with the provisions of the Act and these rules and to produce the Treasury Challan in proof of such payment, by the date, specified in the said notice. The officer shall, in every such case, pass a self speaking order, giving therein reasons for the action taken.

Rule 51. Issue of Tax Demand Notice. — (1) If any sum is payable by a person under the Act or these rules, the designated officer shall serve a notice in Form VAT – 56 upon him specifying the date, not less than fifteen days and not more than thirty days from the date of service of the notice, on or before which, payment shall be made and he shall also fix a date on or before which, the person shall furnish the treasury challan in proof of such payment.

(2) When the Treasury Challan is produced, the designated officer shall make the necessary entry in the personal account of the person.

Interest

Nature of Delay	Section	Rate of simple Interest
Failure to pay tax by due date of payment	32(1)	0.5% of tax due per month from the due date till the actual date of payment
Failure to deposit TDS by due date of payment	27(7)	1.5% of amount deductible per month from the due date till the actual date of payment
Rectification of any error or omission in return after its furnishing, which results in higher amount of tax due than the original Return	32(2)	1.5% of the additional tax payable per month from the due date till the actual date of payment
Failure to declare amount of tax in the Return	32(3)	1.5% of the tax not declared per month from the due date till the actual date of payment.
Failure to pay amount of tax or penalty on demand issued by department	32(4)	1.5% of amount of tax or penalty due per month from the date of expiry of notice period or 30 days

Payment of recovery amount after vacation of stay order on recovery of any tax or penalty	32(4)	1.5% of amount ultimately found to be due per month from the date the tax and penalty first became due
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Section 32. (1) If any person fails to pay the amount of tax due from him as per provisions of this Act, he shall, in addition to the amount of tax, be liable to pay simple interest on the amount of tax due from him at the rate of half per cent per month from the due date for payment till the date, he actually pays the amount of tax.

(2) If a person having furnished a return under this Act, rectifies any error or omission as per sub-section (4) of section 26, which results in higher amount of tax to be due than the original return, such a person shall be liable to pay interest at the rate of one and half per cent per month, in respect of the additional amount of tax payable from the due date for payment till the date, he actually pays the additional amount of tax.

(3) If a person fails to declare the amount of tax in a return, which should have been declared, such a person shall be liable to pay simple interest at the rate of one and half per cent per month on such amount of tax from the due date for payment till the date, he actually pays such amount of tax.

(4) If the amount of tax or penalty due from a person is not paid by him within the period specified in the notice of demand, or if no period is specified, within thirty days from the service of such notice, the person shall in addition to the amount of tax or penalty, be liable to pay simple interest on such amount at the rate of one and half per cent per month from the date immediately following the date, on which the period specified in the notice or the period of thirty days, as the case may be, expires till the date, he actually pays such amount of tax or penalty, as the case may be:

Provided that where the recovery of any tax or penalty is stayed by an order of any competent authority or any Court, the amount of tax or penalty shall, after the order of stay is vacated, be recoverable alongwith interest at the aforesaid rate on the amount ultimately found to be due and such interest shall be payable from the date, the tax or penalty had first become due.

(5) The amount of interest payable under this section shall, -

(a) be calculated by considering part of a month as one month;

(b) for the purposes of collection and recovery, be deemed to be tax under this Act; and

(c) be in addition to the penalty, if any, imposed under this Act.

Explanation. – If payment of the amount of tax is made by any person through cheque and the same is dishonoured by the bank, it will amount to failure on the part of the person to pay the amount of tax.

Professional Tax

Applicability	In Punjab Not Applicable
Registration – Manual\Online	In Punjab Not Applicable
Process of Registration	In Punjab Not Applicable
Forms needed for Registration	In Punjab Not Applicable
Documents needed for registration	In Punjab Not Applicable
Ceiling of Professional Tax <ul style="list-style-type: none"> • Employer • Employee 	In Punjab Not Applicable
Rule for Payments of Professional Tax(Whether Online\Manual and if manual cheque \DD to whom issue)	In Punjab Not Applicable
Forms for <ul style="list-style-type: none"> • Payments of Tax • Filling of Return 	In Punjab Not Applicable
Due Date for Depositing of <ul style="list-style-type: none"> • Professional Tax • Filling Return 	In Punjab Not Applicable
Rule for Assessments	In Punjab Not Applicable

Entry Tax

Applicability

Entry tax is leviable on all persons including taxable person registered under the Punjab Value Added Tax Act, 2005 on entry of goods into the state of Punjab for the notified goods of which the list alongwith rates of entry tax is mentioned below in table. Here it is pertinent to point out that entry tax is payable on the goods even imported from outside the territory of India. Entry tax is not leviable if the goods are not notified for levy of entry tax U/s 3 or 3A or goods though notified but are coming in the state of Punjab for Job Work, Rejected Material and Returned Material subject to certain conditions or goods are not meant for state of Punjab but are in transit for destination outside the state of Punjab.

Mode of Payment

In case entry by Road the importer has to pay the entry tax at the Information Collection Centre and for other imports in Punjab by Rail/Air the entry tax has to be deposited in the office of concerned Asst. Excise & Taxation Commissioner incharge of the district within 2 days of such import and in case where goods are coming through Rails and ICC is situated at Railway Station then entry tax is to be paid at that Railway Station. The payment of entry tax can be made either

at the ICC or in the office of the Asst. Excise & Taxation Commissioner incharge of the district against a receipt in form TEG-II in any of the following modes

- i) in cash or by way of Demand draft
- ii) if permitted by the Excise & Taxation Commissioner, by cheques against the Bank guarantee
- iii) with the prior approval of the Excise & Taxation Commissioner, deposited in the office of the Asst. Excise & Taxation Commissioner of respective district within 48 hours
- iv) through online or card based modes available with the concerned authorized banks.

Return

There is no separate return prescribed for Entry tax but here it is pertinent to point out that importer can defer his liability of entry tax by furnishing an undertaking where he is registered and for that he has to furnish the detail regarding the import of goods for which he has deferred the payment of entry tax as interim stay has been granted by the Hon'ble Punjab & Haryana High Court on the entry Tax in Punjab in the case of M/s Bhushan Steels and Power Ltd. Vs. State of Punjab and consequently a general circular has also been issued by the Punjab Govt. allowing all dealers by furnishing undertaking can get the benefit of deferment until the final orders of the court as it is yet to be decided whether entry tax in Punjab will stand or will be struck down if it lacks constitutional validity.

Conditions for Admissibility of entry tax paid:

Section 13A under the Punjab Value Added Tax Act, 2005 stipulates Conditions for ITC admissibility in respect of entry tax paid by a taxable person. ITC would be admissible if the goods imported are for the purpose of:

- a) Sale in the state
- b) In the course of inter state trade or commerce
- c) In the course of export
- d) For use in manufacturing activity of taxable goods within the state or In the course of inter state trade or commerce or In the course of export.

Name of Goods	Rate of Tax
1. iron and steel which are mentioned in clause (iv) of Section 14 of the Central Sales Tax Act, 1956, except the following goods	4%
(i) Steel bars (rounds, rods, squares, flats, octagons and hexagons, plain and ribbed or twisted, in coil form as well as straight lengths);	

(ii) Steel structurals (angels, joints, channels, tees, sheet piling sections, Z sections or any other rolled section);	
(iii) Sheets, hoops, strips and skelp, both black and galvanized, hot and cold rolled, plain and corrugated, in all quantities, in straight lengths and in coil form, as rolled and in revetted conditions	
(iv) Plates both plain and chequered in all qualities;	
(v) Steel Slabs and Blooms ;	
(vi) Discs, rings forgings and steel castings;	
(vii) Steel tubes, both welded and seamless of all diameters and lengths including tube fittings; and	
(viii) Wheels, tyres, axles and wheels sets.	
2. Lubricants	12.50%
3. Furnace oil	4%
4. D.G Set	12.50%
5. All Kind of Cement	12.50%
6. Electric Motors	12.50%
7. Bitumen	5%
8. Coal & Coke	4%
9. Vaneer and on all types of Plywood, Board (other than paper Board) and Sunmica	12.50%
10. Girder (Joists), Angle, Channel, Thermo Mechanical Treated Bar (TMT Bar) and TOR Steel	4%
11. Steel Fabricated Material and poles of Reinforced Cement Concrete and Steel	12.50%
12. Reinforced Concrete Cement Pipes and Seamless Welded Pipes	5%
13. Transformers & its accessories and Aluminium-cum-Steel-Reinforced	5%
14. Sulphuric Acid, Hydrochloric Acid, Nitric Acid, Caustic Soda, Ethyle Acetate & Acetic Anhydride	5%
15. Diesel of all kinds and Heavy Petroleum Stocks	8.80%

Road Permit/Way Bill – Inward/Outward

Applicability	In Punjab Not Applicable
<ul style="list-style-type: none"> • Inward • Outward 	
Form Number	In Punjab Not Applicable
<ul style="list-style-type: none"> • Inward 	

<ul style="list-style-type: none"> • Outward 	
Process to Issue Manual\ Online <ul style="list-style-type: none"> • Inward • Outward 	In Punjab Not Applicable
Procedure for Self printing way Bill\Road Permit if applicable <ul style="list-style-type: none"> • Inward • Outward 	In Punjab Not Applicable
Government Fee for issuance of way bill\Road Permit <ul style="list-style-type: none"> • Inward • Outward 	In Punjab Not Applicable
Ceiling Limit for carrying the goods without form	In Punjab Not Applicable
Procedure to collect way bill\Road Permit by dealer <ul style="list-style-type: none"> • First Time • Subsequently • 	In Punjab Not Applicable
Procedure to Submit utilization of way bill\Road Permit by dealer into department <ul style="list-style-type: none"> • First Time • Subsequently 	In Punjab Not Applicable
Validity of Road Permit\Way Bill	In Punjab Not Applicable
Procedure to collect way bill by unregistered dealer <ul style="list-style-type: none"> • Inward • Outward 	In Punjab Not Applicable
List of Exempted shipment	In Punjab Not Applicable

Forms under Punjab Value Added Tax Act, 2005

Form VAT -1	Application for Registration
Form VAT -2	Challan for payment
Form VAT -3	Personal Surety Bond
Form VAT -4	Registration Certificate
Form VAT -5	Application for Amendments in Particulars Subsequent to registration
Form VAT -6	Intimation of amended VRN/TRN Registration details
Form VAT -6A	Application form for opting out of payment of lump-sum tax
Form VAT -7	Application for grant of input tax credit in case of loss/destruction/mutilation of original copy of VAT Invoice
Form VAT -8	Indemnity Bond by taxable person
Form VAT -9	Application for permission by casual trader
Form VAT -10	Receipt of security from casual trader
Form VAT -11	Permission to casual trader
Form VAT -12	Declaration at ICC or check post
Form VAT -13	Statement of sales, purchases and tax liability by a casual trader
Form VAT -14	Clearance certificate for casual trader
Form VAT -15	Return by a taxable person
Form VAT -16	Information to be submitted along with monthly payment of tax
Form VAT -17	Return by a registered person
Form VAT -18	List showing sales of goods in course of inter-state trade or export to be furnished by a taxable person
Form VAT -19	List showing Purchase of goods from outside or in course of inter state trade or Import in to India by a taxable person
Form VAT -20	Annual statement by a taxable person
Form VAT -20A	Annual Statement by a taxable person having GTO below Rs. 50lac
Form VAT -21	Annual statement by a registered person
Form VAT -22	VAT Audit report
Form VAT -22A	Audit Report
Form VAT -22B	Audit Report
Form VAT -23	List of Sales
Form VAT -24	List of Purchases
Form VAT -25	Particulars to be given by person who entered into contract with contractor
Form VAT -26	Form of application for allotment of Tax Deduction Number
Form VAT -27	Monthly return of deduction of VAT at source by Contractee
Form VAT -28	Certificate of Deduction of Tax from payments made to contractors
Form VAT -29	Application for Refunds

Form VAT - 29A	Application for Refunds by Organizations listed in Schedule G
Form VAT -30	Refund Voucher
Form VAT - 30A	Refund adjustment order
Form VAT - 30B	Register of applications for refund of tax
Form VAT - 30C	Register of applications for refund of tax
Form VAT -31	Specimen of sales register for taxable persons
Form VAT -32	Specimen of Purchase register for taxable persons
Form VAT -33	Specimen of sales register for registered persons
Form VAT -34	Specimen of Purchase register for registered persons
Form VAT -35	Transit slip
Form VAT -36	Declaration for transport of goods to and from
Form VAT - 36A	Application for issue of Form VAT-36
Form VAT - 36B	Register showing account of the Form VAT-36
Form VAT - 36C	Indemnity Bond
Form VAT -37	Personal/surety bond to be executed by the owner/consignor/consignee
Form VAT -38	Cash security receipt
Form VAT -39	Transport receipt
Form VAT -40	Way Bill
Form VAT -41	Dispatch Order
Form VAT -42	Delivery Register
Form VAT -43	Bilti register- inward
Form VAT -44	Bilti register- outward
Form VAT -45	Forwarding not
Form VAT -46	Auction notice
Form VAT -47	Pre-auction notice
Form VAT -48	Auction proceedings
Form VAT -49	Receipt for Auction money/earnest money
Form VAT -50	Institution register or appeals/applications/ revisions
Form VAT -51	Peshi register of cases fixed before the appellate authority
Form VAT -52	Disposal register of appeals/ applications/ revisions
Form VAT -53	Register of cases in appeal to be maintained by Designated Officer
Form VAT -54	Daily collection register
Form VAT - 54A	Daily collection register (Punjab Municipal Fund)
Form VAT -55	Demand and collection register
Form VAT -56	Tax demand notice

Form VAT - 56A	Notice of tax demand on amendment of assessment
Form VAT -57	Summons to appear in person and/or produce documents
Form VAT -58	Notice of locking of Tax Identification Number
Form VAT -59	Indemnity Bond
Form VAT -60	Online person wise ledger of provisional Refund
