

# A.P. VALUE ADDED TAX 2005

## 1. SHORT TITLE

- This Act may be called the **Andhra Pradesh Value Added Tax, 2005**.

## 2. DEFINITIONS

- **'Dealer'** means any person who carries on the business of buying, selling, supplying or distributing goods or delivering goods on hire purchase or on any system of payment by installments, or carries on or executes any works contract involving supply or use of material directly or otherwise, whether for cash or for deferred payment, or for commission, remuneration or other valuable consideration.
- **'Exempted Turnover'** means the aggregate of sale price of all goods exempted under the Act and full or part of the actual value or fair market value of all transactions not taxable under the provisions of Act, including transactions falling under Section 6A of the [Central Sales Tax Act, 1956].
- **'Goods'** means all kinds of movable property other than newspapers, actionable claims, stocks, shares and securities, and includes all materials, articles and commodities including the goods as goods or in some other form, involved in the execution of a works contract or those goods used or to be used in the construction, fitting out, improvement or repair of movable or immovable property and also includes all growing crops, grass and things attached to or forming part of the land which are agreed to be served before sale or under the contract of sale.
- **'Input Tax'** means the tax paid or payable under Act by a VAT dealer [whether directly by himself or through his agent on his behalf] to another VAT dealer on the purchase of goods in the course of business.
- **'Place of Business'** means any place where a dealer purchases or sells goods and includes :
  - (a) Any warehouse, godown or other place where goods are stored or processed or are produced or manufactured; or
  - (b) Any place where a dealer keeps his books of accounts
  - (c) Any place where business is carried on through an agent by whatever name called, the place of business of such agent.
- **'Sales Price'** Means :
  - a) The total amount set out in the tax invoice or bill of sale ; or
  - b) The total amount of consideration for the sale or purchase of goods as may be determined by the assessing authority, if the tax invoice or bill of sale does not set out correctly the amount for which the goods are sold; or
  - c) If there is no tax invoice or bill of sale, the total amount charged as the consideration for the sale or purchase of goods by a VAT dealer or TOT dealer either directly or through another, on his own account or on account of others, whether such consideration be cash, deferred payment or any other thing of value and shall include.

- i) The value of any goods as determined by the assessing authority:
  - a) To have been used or supplied by the dealer in the course of execution of the works contract; or
  - b) To have been delivered by the dealer on hire purchase or any other system of payment by installments; or
  - c) To have been supplied or distributed by a society including a Co-operative Society, Club, firm or association to its members, where the cost of such goods is not separately shown or indicated by the dealer and where the cost of such goods is separately shown or indicated by the dealer, the cost of such goods as shown or indicated;
- ii) Any other sum charged by the dealer for anything done in respect of goods sold at the time of, or before the delivery of the goods.
- iii) Any other sum charged by the dealer, whatever be the description, name or object thereof.
  - **'Tax'** means a tax on the sale or purchase of goods payable under the Act and includes :
    - a) A tax on the transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
    - b) A tax on the transfer of property in goods whether as goods or in some other form involved in the execution of a works contract;
    - c) A tax on the delivery of goods on hire purchase or any system of payment by instalments;
    - d) A tax on the transfer of the right to use any goods for any purpose whether or not for a specified period of cash, deferred payment or other valuable consideration;
    - e) A tax on the supply of goods by any un-incorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;
    - f) A tax on the 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;
  - g) **'Total Turnover'** means the aggregate of sale prices of all goods, taxable and exempted, sold at all places of business of the dealer in the State, whether directly by himself or through his agent or agents, including the turnover of sales involved in the transactions falling under section 3,5,6A and 8(6) of the Central Sales Tax Act, 1956 and shall also include the gross consideration received or receivable towards execution of work contract.
  - h) **'Work Contract'** includes any agreement for carrying out for cash or for deferred payment or for any other valuable consideration, the building construction, manufacture, processing, fabrication, erection, installation, laying, fitting out, improvement, modification, repair or commissioning of any movable or immovable property.

## **INPUT TAX CREDIT, OUTPUT TAX CREDIT**

- Input tax means the tax what we have paid at the time of purchase of goods.
- Output tax means the tax what we are due to receive on sale of goods.
- Input tax credit is discussed in detail at later point of time.
- There is no multi point taxation and this is only single point tax.
- Sale intra state means sales made within state of Telangana. Inter state sales means sales made to the party located anywhere outside our state.

## **SCHEDULES UNDER VAT ACT.**

- There are in all VI schedules under VAT Act.
- Schedule I deals with exempted goods u/s 7.
- Schedule II deals with transactions zero rated and eligible for input tax credit.
- Schedule III deals with bullion and spice, articles of jewellery, precious stones.
- Schedule IV deals with list of goods taxable at 5%
- Schedule V deals with goods taxable at 15.5% other than specified in schedule I, III, IV and VI
- Schedule VI deals with goods subjected to tax at special rates like Indian made foreign liquor, petrol, diesel etc..

## **TOT DEALER AND VAT DEALER.**

- TOT dealer means whose annual turnover is below Rs.50,00,000-00
- VAT dealer means whose annual turnover is above Rs.50,00,000-00
- Exemption is up to 5,00,000-00 for all the dealers who are dealing in various goods.
- Exemption is also given to dealers who are dealing in list of goods as mentioned in schedule I like agricultural implements, beetel leaves etc..

## **4. Act not to apply to sales or purchase outside the State, in the course of import or export etc.**

- Nothing contained in the Act shall be deemed to impose or authorise the imposition of a tax on the sale or purchase of any goods, where such sale or purchase of any goods, where such sale or purchase takes place;
  - a) Outside the State; or
  - b) In the course of the import of the goods into, or export of the goods out of the territory of India; or
  - c) In the course of inter-State trade or commerce.

## **INCIDENCE LEVY AND CALULATION OF TAX SEC 4**

1.SAVE OTHERWISE PROVIDED IN THE Act every dealer registered or liable to be registered as a VAT dealer shall be liable to pay tax on every sale of goods in the State at the rates specified in the Schedule

2.Every dealer who has not opted for registration as a Value Added Tax dealer

and who is registered or liable to be registered for Turnover Tax shall pay tax @1% on taxable turnover in such manner as may be prescribed.

3. Every Vat dealer shall pay tax on every sale of goods taxable under the Act on sale price at the rates specified in the Schedules III,IV and V subject provisions of Sec 13 (Credit for Input Tax)

4. Every Vat Dealer who in the course of his business purchases any taxable goods from a person or dealer not registered as a VAT dealer or from a VAT dealer in the circumstances in which no tax is payable by the selling VAT dealer shall be liable to pay tax @5% on the purchase price of such goods if after such purchase the goods are

i) used as inputs for goods which are exempt from tax under the Act

ii) used as inputs for goods which are disposed of otherwise than by way of sale in the state or dispatched outside the state otherwise than by way of sale in the course of interstate trade and commerce or export out of the territory of India or

iii)disposed of otherwise than by way of consumption or by way of sale either within the state or in the course of interstate trade or commerce or export out of India.

5. Every dealer shall pay tax on the sale price of goods specified in Schedule VI at the special rates and at the point of levy specified thereon

6. Every casual dealer who sells goods within the State any dealer covered under Explanation III and IV of Clause 10 of Sec 2 shall pay tax on the sale price of such goods at the rates specified in the respective schedules in the Act.

### **WORKS CONTRACT**

a) every dealer executing verse contract shall pay tax on the value of goods at the time of incorporation of such goods in the works executed at the rates applicable.

b)Every dealer executing works contract may in lieu of the amount of tax payable by him under clause a opt to pay by a way of composition @5% of the total amount received or receivable towards execution of works contract either by himself or through sub contractor.

c) Omitted.

d)Every dealer engaged in construction and selling of residential apartments, houses,

buildings or commercial complexes, may in lieu of the amount tax payable by him under clause a opt to pay tax by a way of composition @5% on 25% of the amount received or receivable.

e) Omitted.

f)Any dealer registered or liable to be registered for TOT and executing any works contract shall pay @1% on total value of goods at the time of incorporation of goods used.

## **LEASE**

8. Every VAT dealer who transfers their right to use goods taxable under the act for any purpose whatsoever whether or not for a specified period

to any lessee or licensee for cash, deferred payment or other valuable consideration shall pay tax at the rates specified in the schedules.

8A) Notwithstanding anything contained in sub section 8 a producer of a feature film who transfers the film to the distributors or the purpose of exhibiting may opt to pay by the way of composition.

8B) Any dealer other than producer of a feature film in lieu of tax payable by him sub section 8 opt to pay by way of composition @5%.

## **HOTELS AND RESTAURANTS**

9. Notwithstanding anything contained in that

a) Every dealer being a star hotel, having a status of three star and above duly recognised by competent authority shall pay tax at 15.5% of the taxable turnover of sale or supply of goods, being food or any other article for human consumption or drink served at restaurants attached to such hotels or anywhere whether indoor or outdoor.

b) Every dealer being a hotel other than those mentioned in clause a shall pay tax @5%

c) Every dealer other than those mentioned in clause a and b and whose annual turn over is Rs.1.5 crores or more shall pay tax @15.5%

d) Notwithstanding anything contained in the act every person who for an agreed commission brokerage buys

or sells on behalf of any principal who is a resident of the state shall be liable to pay tax.

11) Every dealer who is engaged in the integrated activity of printing and supplying of printed material may in lieu of the tax payable may opt to pay tax @5% on 60% of total valued of invoice.

12) Any dealer engaged in selling of cotton fabrics, man made fabrics, wollen fabrics, textile made ups, bedsheets, pillow covers, towels, blankets, travelling rugs, curtains and embroidery may opt to pay @5% on 20% of total turn over.

**Zero-rated sales** : Subject to the conditions in Section 9 and 13 of the Act, the following shall be zero-rated sales for the purpose of the Act and shall be eligible for input tax credit.

Sale of taxable goods in the course of inter-state trade and commerce falling within the scope of Section 3 of the Central Sales Tax Act, 1956;

(a) Sale of goods falling within the scope of sub section (1) and (3) of Section 5 of the Central Sales Tax Act, 1956;

(b) Omitted

- (c) **13. Credit for Input :** 1) Subject to the condition if any, prescribed, an input tax credit shall be allowed to the VAT dealer for the tax charged in respect of all purchases of taxable goods, made by that dealer during the tax period, if such goods are for use in the business of the VAT dealer. No input tax credit shall be allowed in respect of the tax paid on the purchase of goods specified in Schedule VI.
- (d) 2) a) A dealer registered as a VAT dealer on the date of commencement of the Act, shall be entitled to claim input tax credit for the sale tax paid under Andhra Pradesh General Sales Tax Act, 1957 [on the stock held in any form in the State] on the date of commencement of the Act subject to the conditions and in the manner as may be prescribed :
- (e) Provided that such goods should have been purchased from 01.04.2004 to 31.03.2005 and are goods eligible for input tax credit.

b) Subject to the conditions if any, prescribed, input tax credit shall be allowed to a VAT dealer on registering as VAT dealer if any input tax is paid or payable in respect of all purchases of taxable goods, where such goods are for use in the business as VAT dealer; provided the goods are in stock on the effective date of registration and such purchase occurred not more than three months prior to such date of registration.

**3) A VAT dealer shall be entitled to claim :**

- a) Input tax credit under sub-section (1), on the date the goods are received by him, provided he is in possession of a tax invoice.
- b) Input tax credit or sales tax credit under sub-section (2), on the date of registration, provided he is in possession of documentary evidence therefor.

4) A VAT dealer shall not be entitled for input tax credit or sales tax credit in respect of the purchases of such taxable goods as may be prescribed read with rule 20.

- a) All automobiles
- b) Fuels used for automobiles
- c) Air conditioned units
- d) Any goods purchased and used for personal consumption
- e) Any goods purchased and provided free of charge as gifts otherwise by way of business practice
- f) Any goods purchased and accounted for in the business but utilised for the purpose of providing facilities to employees
- g) Crude oil
- h) Natural gas naphtha and coal unless the dealer is in the business of these goods
- i) Any input used in the construction of any buildings unless otherwise dealer is in business of works contract and has not opted for composition.
- j) Earth moving equipment
- k) Generators and parts
- l) Rice purchased by FCI from VAT dealers or farmers
- m) Rice purchased by AP State Civil Supplies Corporation from FCI or from VAT dealer.
- n) n) Refrigerators, coolers purchased by soft drink manufactures not for use in their manufacturing process
- o) o)Any goods purchased and used as inputs in job work
- p) p) PDS kerosene purchased by wholesale dealers for purpose of supplying to fair price shops
- q) q)Furnace oil

- r) r)Cement used in the manufacture of RCC, PCC pipes, cement poles and pre stressed railway concrete sleepers.

**5) No input tax credit shall be allowed on the following :-**

- a) Works contracts where the VAT dealer pays tax under the provisions of clauses (b) (..) and (d) of sub-section (7) of Section 4 :
  - b) Transfer of a business as a whole :
  - c) Sale of exempted goods except when such goods are sold in the course of export or exported out the territory of India;
  - d) Exempt Sales
  - e) Transfer of exempted goods on consignment basis or to braches of the VAT dealer outside the State otherwise than by way of sales;
  - f) The purchase of any goods by an agent for supply of such goods to his resident principal.
  - g) The transactions of which VAT dealer pays tax under sub-section (8A) [or sub-section (8B)] of section 4 of the Act.
  - h) The supply or sale of goods on which a VAT dealer pays tax under clause (b) and (d) of sub-section (9) of section 4 of the Act.
  - i) Transactions on which tax is paid or payable under sub-section (11) of section 4.
  - j) The sale of goods on which a VAT dealer pays tax under sub-section (12) of section 4 of the act.
- 6) The input tax credit for transfer of taxable goods outside the State by any VAT dealer otherwise than by way of sale shall be allowed for the amount of tax [in excess of 5%].
- 7) Where any VAT dealer pays tax under clause (a) of sub-section (7) of section 4, the input tax credit shall be limited to [75%] of the related input tax.
- 8) Where goods purchase by a VAT dealer are partly for his business use and partly for other than his business use, the amount of the input tax credit shall be limited to the extent of input tax that relates to the goods used in his business.
- 9) A Turnover Tax dealer or a casual trader shall not be entitled to claim input tax credit.
- 10) Any dealer covered by Explanation III and IV of clause (10) of Section 2 shall not be eligible for input tax credit against or relatable to sale of un-serviceable goods or scrap, surplus, old, obsolete or discarded material or waste products whether by auction or otherwise.
- 11) Any VAT dealer who purchases any taxable goods from a dealer covered under sub section (10) above, shall be eligible for input tax credit, on production of documentary evidence that tax has been charged.
- 12) **20 Return & Self-Assessments :** 1) Every dealer registered under Section 17 of the Act, shall submit such return or returns, along with proof of payment of tax in such manner, within such time and to such authority as may be prescribed.

## **THE CENTRAL SALES TAX ACT, 1956**

### **Short Title, Extent and Commencement :**

- 1) This Act may be called the Central Sales Tax Act, 1956.
- 2) It extends to the whole of India
- 3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

### **2. Definitions :**In this Act, unless the context otherwise requires.

- a) **“Appropriate State” Means –**

- i) In relation to a dealer who has one or more places of business situated in the same State, that state;
  - ii) In relation to a dealer who has places of business situate in different States, every such State with respect to the place or places of business situated within its territory.
- b) “Business” includes –**
- i) Any trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern and.
  - ii) Any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern.
  - iii) **“Crossing the customs frontiers of India”** means crossing the limits of the area of a customs station in which imported goods or export goods are ordinarily kept before clearance by customs authorities.
  - iv) **Sales** : With its grammatical variations and cognate expressions, means any transfer of property in goods by one person to another for cash or deferred payment or for any other valuable consideration, and includes.
  - v) **Turnover** : Used in relation to any dealer liable to tax under this Act means the aggregate of the sale prices received and receivable by him in respect of sales of any goods in the course of inter-State trade or commerce made during any prescribed period (and determined in accordance with the provisions of this Act and the rules made thereunder).
  - vi) **Work Contract** : Means a contract for carrying out any work which includes assembling, construction, building, altering, manufacturing processing fabricating erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property.
    - **When is a sale or purchase of goods said to take place in the course of inter-State trade or commerce** : A sales or purchase of goods shall be deemed to take place in the course of inter-state trade or commerce if the sale or purchase.
      - a) Occasions the movement of goods from one State to another;
      - b) Is effected by a transfer of documents of title to the goods during their movement from one State to another.
    - **When is a sale or purchase of goods said to take place in the course of import or export** : A sale or purchase of goods shall be deemed to take place in the course of the export of the goods out of the territory of India only if the sale or purchase either occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the customs frontiers of India.
    - **Liability to tax on inter-State Sales** : Subject to the other provisions contained in this Act, every dealer shall, with effect from such date as the Central Government may be notification in the Official Gazette, appoint, not being earlier than thirty days from the date of such notification, be liable to pay tax under this Act on all sales (of goods other than electrical energy) effected by him in the course of Inter-State trade or commerce during any year on and from the date so notified.
    - **A Burden of proof, etc, in case of transfer of goods claimed otherwise than by way of sale** : Where any dealer claims that he is not liable to pay tax under this Act, in respect of any goods, on



the ground that the movement of such goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, as the case may be, and not by reason of sale, the burden of providing that the movement of those goods was so occasioned shall be on that dealer and for this purpose he may furnish to the assessing authority, within the prescribed time or within such further time as that authority may, for sufficient cause, permit, a declaration, duly filled and signed by the principal officer of the other place of business, or his agent or principal, as the case may be containing the prescribed particulars in the prescribed form obtained from the prescribed authority, along with the evidence of dispatch of such goods [and if the dealer fails to furnish such declaration, then, the movement of such goods shall be deemed for all purposes of this Act to have been occasioned as a result of sale]

- **Registration of Dealer :** Every dealer liable to pay tax under this Act shall within such time as may be prescribed for the purpose, make an application for registration under this Act to such authority in the appropriate State as the Central Government may, by general or special order, specify and every such application shall contain such particulars as may be prescribed.
- **Determination of Turnover :** In determining the turnover of a dealer for the purpose of this Act, the following deductions shall be made from the aggregate of the sale prices, namely:
  - a) The amount arrived at by applying the following formula

$$\frac{\text{Rate of tax} \times \text{aggregate of sale price}}{100 \text{ plus rate of tax}}$$

- **Levy and Collection of tax and penalties :** The tax payable by any dealer under this Act of sales of goods effected by him in the course of inter-State trade or commerce, whether such sales fall within clause (a) or clause b) of Section 3, shall be levied by the Government of India and the tax so levied shall be collected by that Government in accordance with the provisions of sub-section (2) in the State from which the movement of the goods commenced.

#### **TRANSIT SALES**

- When a dealer purchases goods from outside state and without taking delivery of the same endorses to be delivered to a dealer in the state it is called transit sales
- The dealer to get exemption totally shall give c form to dealer from whom he purchased and obtained E1 form He should obtain c form from the dealer to whom the goods are endorsed. He should submit E1 and c forms along with a way bill to the department to claim complete exemption.

#### **BRANCH TRANSFER**

- When goods are transferred from one state to the another state or within the state of the same dealer it is called as branch transfer
- When goods are transferred outside state the receiving branch has to give f form and pay tax to appropriate state. The branch which sent goods can claim exemption by producing f form.
- When goods are transferred to a branch in the state it is sufficient if one branch pays the tax and files returns.