

Office of the
Commissioner of State Tax (GST),
8th Floor, GST Bhavan,
Mazgaon, Mumbai-400010.

TRADE CIRCULAR

No. JC/HQ-II/2018-19/10.

Trade Circular No. 10 T of 2019 Date: 16/03/2019

Subject: Tax Deduction at Source (TDS) as per section 31 of MVAT Act after 1st July, 2017.

- Ref.:**
- 1) Maharashtra Act No. XXVI of 2018, Dt. 31.03.2018.
 - 2) Notification No. VAT 1518/CR. 39/Taxation-1, Dt. 25.04.2018
 - 3) Trade Circular No. 32 T of 2017, Dt. 21.07.2017.

Section 31 of the Maharashtra Value Added Tax Act, 2002, (*hereinafter referred to as the "MVAT Act"*) contains provisions related to deduction of tax at source (*hereinafter, referred to as "TDS"*). Section 31 of MVAT Act, 2002 has been amended by Maharashtra Act No. XXVI of 2018 Dt. 31st March, 2018.

A proviso has also been added to sub-section (4) of section 31, with effect from 1st July, 2017, which is reproduced below for ready reference.

"Provided that, any amount paid by an employer, in accordance with the provisions of this section to the credit of the State Government during the period starting on or after the 1st July 2017 and ending on the 31st December 2018, may be claimed as credit in the prescribed manner and subject to the prescribed conditions, by the person making the supply to the employer or the concerned sub-contractor (if any)."

2. Certain queries have been received by this office seeking clarification with regards to applicability of TDS under MVAT Act after 1st July, 2017. The amended provisions are explained as follows:

- a)** An employer should have deducted tax (TDS), in respect of a works contract, executed upto 30th June 2017, even if the amount is payable after 30th June 2017. But, in any case, no VAT TDS shall be done by an employer after 31st December 2018.

- b) No employer, including Government Departments, shall deduct TDS under section 31 of MVAT Act, 2002 in respect of amount payable to contractor after 31st December 2018.
- c) The tax deducted at source under section 31 and paid into the Government Treasury between 1st July 2017 to 31st December 2018 by an employer may be claimed as credit by the principal contractor or a sub-contractor, subject to conditions prescribed in MVAT rule 40 (2A) and rule 40 (2B).
- d) Principal Contractor can claim credit of such TDS amount by filing a revised return, for the period ending on 30th June, 2017, on or before the 10th January, 2019.

To take credit of such TDS, the employer should have:

- i. issued certificate in Form 402 to the principal contractor on or before 31st December, 2018 and
 - ii. filed return in Form 424 electronically on or before 5th January, 2019.
- e) Sub-contractor can claim credit of TDS amount transferred to him by the principal contractor, by filing a revised return, for the period ending on 30th June, 2017, on or before 15th January, 2019.

To take credit of such TDS, the principal contractor should have:

- i. transferred such TDS amount to sub-contractor during the period 1st July, 2017 and 31st December, 2018, and
 - ii. filed the return in Form 424A electronically on or before the 5th January, 2019
 - iii. issued certificate in Form 402A on or before 10th January, 2019 and
- f) In case business is discontinued or otherwise disposed of or has been transferred by principal contractor prior to 1st July, 2017, then the last return should have been revised on or before 10th January, 2019.

3. Once again, it is reiterated that no employer shall deduct TDS after the 31st December, 2018 and no principal contractor and sub-contractor shall be eligible to take credit of the TDS, except in the manner as aforesaid.

4. This circular is clarificatory in nature and cannot be made use of for interpretation of provisions of law. If any member of trade has any doubt, he may refer the matter to this office for further clarification.



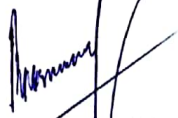
(Rajiv Jalota)

**Commissioner of State Tax (GST)
Maharashtra State.**

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Copy forwarded for information to the Joint Commissioner of State Tax (Mahavikas), with request to upload this Trade Circular on MSTD web-site.


(Dr. B. N. Patil)
Joint Commissioner of State Tax (GST)
HQ-II, Maharashtra State.