

Office of the
Commissioner of Sales Tax,
8th floor, Vikrikar Bhavan,
Mazgaon, Mumbai-400 010.

TRADE CIRCULAR

No. VAT/AMD/2014/8/ADM-8
Circular No. **17** T of 2014.

Mumbai, Date : **20-09-2014**

Sub :- Composition Scheme for Retailers under section 42 of the Maharashtra Value Added Tax Act, 2002.

Ref :- 1) Notification No. VAT 1514/CR 58/Taxation-1 dated 21st August 2014

2) Notification No. VAT 1505/CR-105/Taxation-1 dated 1st June 2005

Background

Section 42 of the Maharashtra Value Added Tax Act, 2002 empowers the State Government to provide for Composition Schemes for different classes of dealers. Accordingly, a notification has been issued on 1st June 2005, which provides for Composition Schemes for restaurants, caterers, bakers, retailers and second hand motor vehicle dealers. Entry 3 of this notification provides for a Composition Scheme for retailers.

Hon. Dy. Chief Minister, in his Budget Speech for the year 2014-15, had announced that Composition Scheme for retailers would be made simpler and more attractive. Accordingly, entry 3 in the notification dated 1st June 2005 has been substituted by notification No. VAT 1514/CR 58/Taxation-1 dated 21st August 2014. New entry 3 of this notification provides for a simpler and attractive Composition Scheme for retailers. The new retailer Composition Scheme shall be effective from 1st October 2014. Consequentially, the old retailer Composition Scheme shall expire on 30th September 2014.

2. **Salient Features of the new Composition Scheme:** Salient features of the new Composition Scheme are explained below:

- i. **Dealers under the old Composition Scheme:** Dealers under the old Composition Scheme are eligible to opt for the new Composition Scheme from 1st October 2014. To opt for the new Composition Scheme, uploading of Form 4A on the Department's website up to 31st October 2014 is mandatory.

If any old Composition Scheme dealer does not desire to opt for the new Composition Scheme from 1st October 2014, then he shall be required to discharge tax liability, as a non-composition Scheme dealer from 1st October 2014. He shall file six-monthly return for the period from 1st October 2014 to 31st March 2015.

- ii. **Effective date for opting in:** A dealer can opt for the new Composition Scheme with effect from 1st October 2014 or 1st April of any subsequent year.

- iii. **Rate of composition amount:** Two options have been provided for payment of composition amount. If a dealer opts to pay composition amount on the total turnover of sales, then he shall pay 1% on the entire turnover of sales, including tax-free goods.

On the other hand, if he opts to pay composition amount only on the turnover of sales of taxable goods, then composition amount shall be payable at 1.5% on such turnover of sales.

A dealer may exercise any of these options, however he can have only one option for a single return period. If he desires, he may change the option for the next return period.

iv. ***Conditions to be eligible for the new Composition Scheme:***

- a. Applicant dealer should be registered under the MVAT Act, 2002 during the period for which Composition Scheme is desired.
- b. Applicant dealer should be engaged in the business of reselling at retail. The term, "selling at retail" has been explained in section 42(1)(b) of the MVAT Act. A dealer shall be considered to be engaged in the business of selling at retail if 9/10th of his turnover of sales consists of sales made to persons, who are not dealers.

If any question arises as to whether any particular dealer is a retailer, then the question can be referred to the Joint Commissioner of Sales Tax(Registration), Mumbai or the Joint Commissioner of Sales Tax (VAT Adm) in moffussil. The respective Joint Commissioner, after hearing the dealer, shall decide the question. The order of the Joint Commissioner shall be final.

- c. The claimant dealer should not be a manufacturer or an importer. It is clarified that if a dealer, who has already availed new Composition Scheme, imports any goods or manufactures any goods, he would cease to be eligible, even though he may not have availed benefit of composition for such imported or manufactured goods.
- d. The turnover of sales of goods shall not exceed rupees fifty lakh in the previous year, to which new Composition Scheme is desired.

For instance, if a dealer desires to opt for new Composition Scheme from 1st April 2015, then his turnover of sales during the year 2014-15 should not have exceeded rupees fifty lakh.

Turnover of purchases is not relevant to decide eligibility of a dealer for Composition Scheme. Secondly, if turnover of sales of a Composition Scheme dealer exceeds rupees fifty lakh in any year, then he can continue to avail benefits of Composition Scheme till the end of that year. However, he shall be ineligible for Composition Scheme in the subsequent year.

For the purpose of computing turnover of sales and for availing benefit of Composition Scheme, turnover of sales of following goods shall not be considered:

- i. Goods, covered by entry 5 and 10 of Schedule D of MVAT Act, i.e. High Speed Diesel Oil and any other kind of Motor Spirit,
- ii. furnishing fabrics, notified by the State Government under entry 101 of Schedule C of MVAT Act.

The turnover of sales of medicines would be eligible for the benefits of this Composition Scheme.

v. *Other conditions to be complied by Composition Scheme dealer:*

- a. *Purchases:* Taxable goods shall be purchased from registered dealers only. This condition is not applicable for purchase of tax-free goods and purchase of packing materials used for packing of goods, resold by him.

- b. *Tax Collection:* Composition amount shall not be collected separately by the Composition Scheme dealer.
- c. *Tax Invoice:* Tax invoice shall not be issued, in respect of sales for which Composition Scheme has been availed. However, as any other dealer, he is required to issue a cash memo, sales bill etc. if the value of the goods sold in a single transaction exceeds rupees fifty. [sec. 86(3) proviso]
- d. *Set-off:* Composition Scheme dealer shall not be eligible to claim any set-off under MVAT Rules, 2005 in respect of purchase of goods, corresponding to sale of goods, for which composition has been availed. Set-off shall not be admissible on purchases of packing materials, used for packing of goods, for which Composition Scheme has been availed. It is clarified that Composition Scheme dealer can claim set-off on purchases of capital assets and the purchase of goods, for which benefit of composition has not been availed.

vi. ***Application for the Composition Scheme:***

- a) *Opting for the period from 1st October 2014 to 31st March 2015:* Old Composition Scheme dealer may opt for the new Composition Scheme from 1st October 2014. Other dealers, shall be eligible to opt from 1st October 2014, if they fulfill the conditions of the new Composition Scheme and are liable to file six monthly returns during the year 2014-15. Thus, dealers, who are liable to file monthly or quarterly returns during the year 2014-15, shall not be eligible to opt for new Composition Scheme.

A dealer, who is registered during the year 2014-15 and who had not opted for the old Composition Scheme would not be eligible to opt for new Composition Scheme in 2014-15 because periodicity of returns, in this case, is quarterly.

An eligible dealer (old Composition Scheme dealer as well as fresh applicant) desiring to opt for the new Composition Scheme would be required to upload an application in Form 4A on the Department's websites on or before 31st October 2014.

b) *Opting for the year 2015-16 and thereafter:* A dealer desiring to opt for new Composition Scheme shall upload an application in Form 4A on the Department's websites on or before 30th April of the respective year. Eligible dealer can avail the benefits of new Composition Scheme from 1st April of the respective year.

c) *Newly registered dealers:* A newly registered dealer, who is eligible and desires to opt for new Composition Scheme, shall indicate his option in Form 101, itself. Such newly registered dealer need not upload Form 4A on the Department's website. Such dealer shall be eligible to claim benefit of new Composition Scheme from the date of effect of the registration certificate. Guidelines given in para (a) above may be referred by dealers registered during the year 2014-15.

vii. ***Continuance in the Composition Scheme:*** Composition Scheme dealer shall not be required to apply every year to continue to avail Composition Scheme. A dealer who is permitted to opt for Composition

Scheme shall continue to avail benefits till he opts out of the scheme or violates any condition the scheme.

viii. *Opting out or ceasing to be eligible for the Composition Scheme:*

- (a) Old Composition Scheme dealer would not automatically become new Composition Scheme dealer from 1st October 2014 but would be required to upload an application in Form 4A on Department's website on or before 31st October 2014. If he does not upload Form 4A, then he shall not be eligible for the new Composition Scheme.
- (b) A dealer who desires to opt out of new Composition Scheme shall intimate by uploading Form 4B on Department's website in the beginning of the year on or before 30th April. On such intimation, the dealer would cease to be a Composition Scheme dealer from 1st day of April of the said year.
- (c) In case of contravention of any condition of the notification, the dealer would cease to be a Composition Scheme dealer from the date of such contravention. In this situation, he would be required to discharge his tax liability as any other non-Composition Scheme dealer from the date of such contravention.

ix. *Set-off on opting in or opting out of the Composition Scheme:*

- (a) *Set off on opting in:* As seen above, a dealer opting for Composition Scheme is not eligible to claim set-off. Therefore, dealers, opting for Composition Scheme, shall be required to reverse the set-off, already claimed, on the purchase of goods held in stock on the day of opting for new Composition Scheme. Amount of such set-off reversed should be paid alongwith first return of Composition Scheme.

Illustration: A dealer opts for new Composition Scheme from 1st April 2015 and has a closing stock of rupees 10 lakh on which he had already claimed set-off of rupees 50 thousand. This dealer is required to file his first return as a Composition Scheme dealer for the period from 1st April 2015 to 30th September 2015. He would be required to pay an amount of rupees 50 thousand in addition to the composition amount payable for the period 1st April 2015 to 30th September 2015, while filing return for the said period. The reversal of such set-off may be shown in row (e) of Box 14 of the returns in Form 232 or row (e) of Box 13 in Form 233, as the case may be.

- (b) *Set-off on opting out:* As seen earlier, a dealer opting for Composition Scheme is not eligible to claim set-off. If a Composition Scheme dealer opts out or ceases to be eligible for the new Composition Scheme, then such a dealer would be eligible to claim set-off on the closing stock, held on the day of opting out or ceasing to be Composition Scheme dealer. Such set-off may be claimed in row (d) of Box 9 of return in Form 231 or row (d) of Box 13 of return in Form 233, as the case may be.

Illustration: A dealer intimates his desire to opt out of new Composition Scheme from 1st April 2015 and has closing stock. This dealer may claim set-off on closing stock in his return as a non-Composition Scheme dealer for the period from 1st April 2015. Of course, set-off shall be admissible only if he had not claimed it earlier at any time.

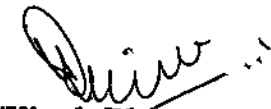
- x. **Returns:** Composition Scheme dealer shall file six-monthly returns. A dealer ceasing to be a Composition Scheme dealer due to contravention of conditions, at any time during the year, shall continue to file six-monthly returns till the end of that year.
3. You are requested to bring the contents of this circular to the notice of the members of your association.


(Dr. NITIN KAREER)
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Mumbai, Date : 20.09.2014

Copy forwarded to the Joint Commissioner of Sales Tax (Mahavikas) with a request to upload this Trade Circular on the Departments website.


(Vivek Bhimanwar)
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