

DELHI TAX COMPLIANCE ACHIEVEMENT SCHEME, 2013

HIGHLIGHTS & FAQs

Abbreviations used:

- (i) **DSC (or) Scheme** : Delhi Tax Compliance Achievement Scheme/Voluntary VAT Amnesty Scheme(VVAS)
- (ii) **DVATAct** : Delhi Value Added Tax Act, 2004
- (iii) **CSTAct** : Central Sales Tax Act, 1956
- (iv) **DSTAct**: Delhi Sales Tax Act, 1975
- (v) **WCTAct** : Delhi Sales Tax on Works Contract Act, 1999
- (vi) **RTUAct**: Delhi Sales Tax on Right to Use Goods Act, 2002
- (vii) **ETAct** : Delhi Tax on Entry of Motor Vehicles into Local areas Act, 1994
- (viii) **VATO** : Value Added Tax Officer and Sales Tax Officer

Notes - In this Paper -:

1. In this Paper, "Notice of Assessment/Penalty" under the DVAT Act has been considered and titled as "Assessment Order"; and Objection as "Appeal".
2. In this paper, the term "declared tax" means amount disclosed/surrendered and amount settled (where assessment order has been issued) under this Scheme. The term "declarant" means the person, who has declared tax.

OBJECTIVE AND SCOPE OF THE SCHEME

A. Improve Self-Compliances:

Where **assessment order has NOT been issued**, the declarant (including trader, manufacturer, contractor, builder, leasing company, etc.) shall pay only declared tax(**for the period upto 31.03.2013**); and get **immunity from interest, penalty and prosecution. Circumstances, such as,-**

- (i) Dealer failed to obtain registration and pay tax;
- (ii) Rate of tax has been wrongly charged by the selling dealer;
- (iii) Sale has not been disclosed/under-disclosed in the DVAT / CST Act
- (iv) Input tax credit (ITC) has wrongly been claimed by the purchasing dealer;
- (v) Credit Note/Debit Note, including bulk discounts, have not been accounted for.
- (vi) Central sale has been stated as local sale or *vice a versa*, resulting in tax deficiency;
- (vii) In case of central sales against Form C or other declaration forms, the declarant is not expecting central declaration forms from purchasing dealers;
- (viii) Matter is pending in assessment, audit or special audit and the assessment order has not been framed by VATO;

- (ix) Goods, paper and other accounts are seized by enforcement team, in inspection, survey, search or seizure, carried before 31.3.2013 or for period upto 31.03.2013, where the declarant expects some tax deficiency;
- (x) TDS has not been deducted u/s 36A of the DVAT Act;

B. Disputes Settlement

- Where the assessment order has been issued by the Department, the declarant shall pay tax and interest as stated in such order/notice.
- The order must pertain to a period before and up to 31.3.2013, and tax has not been paid up to 31.8.2013.
- The assessment order might be issued under the DVAT Act, CST Act, DST Act, WC Act, RTU Act, or ET Act.
- The dispute may or may not be pending before any higher forum including the DVAT Tribunal or the High Court or the Supreme Court.
- The declarant is eligible even if no appeal has been filed against that order so far.
- The declarant will get **immunity from payment of interest from the date of order till the date of declaration**, penalty and prosecution under the Act.

IMPORTANT DATES & PERIODS

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|-------------------------|--|
| 12.09.2013 | Enactment of section 107 of the DVAT Act empowering the Government to introduce this Scheme |
| 20.09.2013 | Date of Notification of the Scheme and its coming into force |
| Up to 31.03.2013 | <u>Eligibility</u> : Period for which tax dues might be declared or paid |
| 31.08.2013 | <u>Eligibility</u> : Tax dues up to 31.3.2013 has not been paid or only partly paid by 31.08.2013 |
| 31.01.2014 | Last date of payment of at least 50% of declared tax and filing of declaration in Form DSC-1 under this Scheme |
| 21.03.2014 | Last date of payment of remaining amount of declared tax, if any |

COMPUTATION OF TAX DUES

| S.N. | Nature of Tax Dues | Procedure of Calculation |
|-------------|--|---|
| 1 | Other than Works Contractors: Dealers, <u>whether registered or not</u> , under the DVAT Act or the CST Act on whom assessment order has not been served by VATO | Commodity wise taxable turnover in the tax period in respect of which declaration to be made (X) Rate of tax applicable for that tax period |

| S.N. | Nature of Tax Dues | Procedure of Calculation |
|------|--|---|
| 2 | Works Contractors: Dealers, <u>whether registered or not</u> , under the DVAT Act or the CST Act on whom assessment order has been served or not. | (a) Works contractors engaged in construction, of complex, building, etc., for sale to a buyer before construction is complete, where value of land is included in total consideration: @1% of total consideration (including labour & services); (b) Other works contractors , including the dealers stated at Sl. No. (a), who opt to exclude the value of land as per Rule 3 of the DVAT Rules; @ 3% of total turnover (including value of labour and services). |
| 3 | Dealers registered under the DVAT Act or the CST Act on whom assessment order has been served on certain issues, <u>but declaring tax dues on different issues</u> | As stated at Sl. No. 1 or 2, as the case may be |
| 4 | Dealers other than work contractors, registered under the DVAT Act, CST Act DST Act, WC Act, RTU Act or ET Act on whom assessment order has been served | Aggregate of amount of tax and interest stated in the assessment order (exclude penalty, if any) (less) Amount already paid by the dealer towards the said demand. |
| 5 | Persons required to deduct tax at source u/s 36A of the DVAT Act (TDS) | 3% of total sum paid <u>or</u> credited by the person for discharge of any liability for the execution of works contract <u>or</u> the amount actually deducted, whichever is greater (less) Amount already deposited towards such discharge |

▪ **Manner of calculation of tax dues by the works contractor, being the builders:**

Transactions of builders may be divided in two parts: -

- (i) Activity carried by the builder for the land owner, that is, determination of value of works contract for the land-owner where consideration has been received by the builder in the form of land : Here the value of land shall be determined as per newly inserted Rule 3(1A) of the DVAT Rules;
- (ii) Activity carried on by the builder for the intended buyer (booking of property/unit before completion of construction by the builder): Builder has two options, namely -
 - (a) Pay tax @1% of total consideration, including the value of land, receivable/ received from the intended buyer; or
 - (b) Pay tax @ 3% of total turnover (including value of labour and services) as reduced by the value of land determined in accordance with the recently amended Rule 3(3) & (4) of the DVAT Rules.

The Government has amended Rule 3 of the DVAT Rules vide Notification No. F.3(16)Fin(Rev-I)/2013-14/ds VI/785 effective from 20.09.2013. This Rule facilitates the works contractor to determine his taxable turnover.

▪ **Adjustment of input tax credit from declared tax dues**

The input tax credit cannot be adjusted against payment of tax dues under VVAS. Accordingly, entire tax dues under the Scheme shall be paid in cash through the normal e-payment method.

▪ **Adjustment of 'excess tax credit' or 'carry forward amount' from declared tax dues**

There are no provisions for such adjustment and, thus, entire amount shall be paid by the declarant in cash. He shall not be entitled to adjust his carry forward amount as per the Returns, if any. For example, a declarant, who has carry forward amount of Rs. 10 lacs as on the date of declaration, declares the amount of tax dues of Rs.12 lacs under this Scheme. In such a case, he shall pay entire Rs.12 lacs in cash, without adjusting the carry forward amount of Rs.10 lacs.

PROCEDURE OF MAKING DECLARATION

1. Compute the amount of tax dues in accordance with preceding Paras;
2. If not registered under the DVAT Act (either as a dealer with TIN allotment or as a TDSdeductor with TAN allotment), obtain registration. Also pay tax and file returns for the period after 1.4.2013 along with the declaration in DSC-1;
3. Where declaration is made in relation to the tax dues against which objection/appeal/ revision is pending before the higher forum, then-
 - i. all statutory appeals/revisions pending before quasi-judicial forums up to the stage of Tribunal shall be deemed to have been withdrawn once the Scheme is opted for;
 - ii. all matters pending in the High Court and Supreme Court shall be withdrawn by the declarant, and the declarant shall submit the copy of the application filed before the Court for withdrawal along with FormDSC-1;
4. Fill the declaration in Form DSC-1 on the web-site of the Department;
5. Pay **at least** 50% of amount of declared tax dues through Challanonline. **It may be noted that declarant may pay even the entire amount of tax dues at this stage;**
6. File hard copy of Form DSC-1 along with Challan to the designated authority on or before 31.1.2014;
7. The designated authority shall *suo-moto* issue the acknowledgement in Form DSC-2 within a period of 15 working days from the date of receipt of the declaration. If it is not received, then designated authority may be contacted;
8. Pay remaining (unpaid) amount of tax dues through Challanonline on or before the 21.3.2014;
9. Submit proof of such payment along with a copy of acknowledgement in DSC-2 (already received at Step No. 7) to the designated authority;
10. Obtain Form DSC-3 from the designated authority: On furnishing the details of full payment of declared tax dues, the designated authority shall issue an acknowledgement of discharge of such dues within 15 days in Form DSC-3;
11. A declaration made under this Scheme shall become conclusive upon issuance of Form DSC-3 by the designated authority.
12. Amount paid under this Scheme will not be refunded under any circumstances;

13. If fails to pay the tax dues, either fully or in part, after making declaration, such balance dues along with interest thereon shall be recovered under the provisions of DVAT Act.

IMMUNITIES UNDER THE SCHEME

A. Immunities, where assessment order has NOT been issued:

- Immunity from interest in relation to declared tax
- Immunity from penalty in relation to declared tax
- Immunity from prosecution
- Immunity from any other proceedings in relation to declared tax
- If not already registered under the Act:-
 - Immunity from penalty of late registration
 - Immunity from interest for late payment of tax for the period after 1.4.2013
 - Immunity for late filing of returns for the period after 1.4.2013
- A declaration made under this Scheme shall become conclusive upon issuance of Form DSC-3, and no matter shall be reopened/reassessed/reviewed thereafter in any proceedings under this Scheme or the Act before any Authority or Court relating to the period covered by such declaration to the extent of tax dues declared by the declarant;
- **The information gathered vide a declaration under the Scheme shall be kept confidential,** and shall not be used except under the Scheme and the same shall not be shared with any other person/ government department/ agency.

B. Immunities, where assessment order has been issued:

- Immunity from interest in relation to declared tax for the period after issuance of assessment order till the date of declaration
- Immunity from prosecution
- Immunity from penalty or any other proceedings in relation to declared tax

C. No Immunities under this Scheme:

- Interest stated in the assessment order
- Interest and penalty not related to declared tax
- Penalty which has no relation to tax deficiency stated in the penalty assessment order under Section 33. For example, where penalty has been imposed for late filing of Returns or other documents or for non-maintenance of stock records, etc, such cases would not be covered within the scope of VVAS.

FALSE DECLARATION

Where the Commissioner has reasons to believe that the declaration was false in material particular, he may serve notice on the declarant, within one year from the date of declaration, in respect of such declaration. He may require the declarant to show cause why he should not be required to pay the tax dues unpaid or short-paid as per provisions of the Scheme.

If the Commissioner is satisfied that the declaration made by the declarant was substantially false, then benefit of this Scheme shall not be available to the declarant. Such declarant may be proceeded u/s 89(2) of the Act for furnishing of false declaration.

MISCELLANEOUS

DSC/VVAS introduced by the Delhi Government is certainly an innovative and futuristic Scheme. It would increase the number-base of the dealers registered with the DVAT Department; and help in reducing existing disputes/litigations. In spite of few issues already discussed, it is a welcome move.

Disclaimer:

This paper is an attempt to answer the frequent queries in a simple language. However, for authentic legal interpretation please refer to the scheme Notified vide No. F.3(16)Fin(Rev-1)/2013-14/ds VI/786 dated 20.09.2013

FREQUENTLY ASKED QUESTIONS

Enforcement Survey

- Q1. What is the procedure for evaluating the amount to be paid wherein enforcement survey/seizure of goods/ papers have been made or where the notice of audit has been issued?

If the dealer wants the estimated tax dues to be evaluated he may contact the helpdesk under supervision of Sh. C. Arvind, Additional Commissioner (T & T). Tel. No. 011-23705434; email - actt.amnesty.scheme@gmail.com

- Q2 In case of survey cases where default assessment is pending, and where advance cheque has been collected by the enforcement team at the time of survey and encashed; can such advance payment be adjusted from the amount of tax deficiency stated by the team in its report? If yes, where the amount of advance tax is more than the tax dues, can that excess payment be carry forward by the declarant and adjusted from his future tax liability?

Yes, the advance tax collection can be adjusted by the declarant from his tax dues. Any excess payment can also be adjusted from his future VAT liability. However, he shall file the relevant details along with the DSC-1.

Also, what about the case where the dealer admits his tax liability and deposits the same within 3 days of the survey?

It would not be applicable since section 87(6) was inserted w.e.f. 1.4.2013; and the amnesty scheme covers the tax dues upto 31.3.2013.

Assessment/Audit/Special Audit

- Q3. Since dealers can declare under the VVAS upto 31st January, 2014, whether assessment / audit / special audit / objection/ appeal / recovery proceedings of the Department will continue during the period of VVAS i.e. upto 31.01.2014 ?

Yes. There is no guarantee that the dealer will opt for VVAS and hence, the Department will continue with assessment / audit / special audit / objection/ appeal / recovery proceedings in the normal course and if the proceedings all completed then the dealer will need to pay the assessed tax with interest. Hence, it is in the interest of the dealer to declare and avail the benefit under VVAS at the earliest and in any case on or before 31.01.2014.

Q4. Can VVAS be applied for part of the assessment order/notice of assessment?

No. Under VVAS, the dealer would be required to pay the entire assessed tax and interest.

Q5. There are instances of more than one rate of tax for the same/similar goods depending on sale value or other differentiation. Can we get an illustrative list of goods with more than one rate of tax?

To ascertain the rate of tax on goods, the dealers are advised to refer section 4, section 6 and the Schedules appended to the Delhi Value Added Tax Act, 2004. An illustrative list of goods with more than one rate of tax is given below:-

| Sl. No. | Commodity | Rate of Tax | Rate of Tax |
|---------|-----------------------------|---|---|
| 1. | Watches | Costing uptoRs. 5000 – 12.5% | Costing above Rs. 5000 – 20% |
| 2. | Printers | Normal Printers - 5% | Multi-functional printers – 12.5% |
| 3. | Garments | Costing uptoRs. 5000 – 5% | Costing above Rs. 5000 – 12.5% |
| 4. | Foot wears | Costing uptoRs. 500 – Exempt | Costing above Rs. 500 – 12.5% |
| 5. | Hardware and Sanitary Goods | Hardware – 5% | Sanitary fittings and goods – 12.5% |
| 6. | Paper & Board | Normal paper & board – 5% | Coated paper and board – 12.5% |
| 7. | Mobile phones | Costing uptoRs. 10000 – 5% | Costing above Rs. 10000 – 12.5% |
| 8. | Electric cables | Cables having cross section area of the core from 0.5 to 6.0 sq. millimeter – 12.5% | Industrial cables i.e. Cables having cross section area of the core above 6.0 sq. millimeter – 5% |

- Q6. Where an Audit notice has been issued to the dealers; and the dealer wants to pay tax dues under VVAS, what would be the procedure for dropping/withdrawal of such notice?

The dealer could estimate the deficit tax, which has led to issuance of the audit notice, and pay the same along with DSC 1. Alternatively, the dealer may contact help desk to ascertain his estimated tax dues on payment of which his audit is unlikely to be pursued, unless some other aspect which is substantially adverse comes to notice, and pay the same with DSC 1.

- Q 7. Can a dealer pay a single/ consolidated amount against his estimated tax dues in context of his tax dues for the multi-year audit or multi-year special audit ordered against it; or otherwise?

Yes, the declarant can pay tax dues through single challan and file one DSC-1 for the consolidated amount. However, the declarant shall furnish tax period wise details of tax dues along with DSC-1.

Default in furnishing of Returns

- Q8. If a dealer has defaulted in filing of DVAT/CST returns for the tax period(s) upto 31st March 2013 and has also not paid net tax as computed u/s 11 of the Act, what will be the procedure for applying under Amnesty Scheme and filing of returns? Will he get immunity from payment of penalty u/s 86(9) for late filing of the return?

Such dealers have to file returns for all the tax period(s) upto March, 2013 in the return Form DVAT-16 and CST Form1 if registered under CST Act also. The dealers will get immunity from payment of interest and penalty for late payment of tax and late filing of return for the above said tax period(s). However, the dealers will not be entitled to claim input tax credit on the purchases even if purchased on valid tax invoice(s). But, the dealers shall fill up the purchase details in the usual manner in block R6 of return Form DVAT-16. Thereafter, the input tax credit has to be reduced by mentioning the turnover and amount of ITC against "item A3.16 – Other adjustments, if any (Disallowed for Availing Amnesty)" of part 'A3-Adjustment to Tax Credit' of Annexure-1 of the return. The total decrease in item A4 will move to item R6.5 of the return. R6.6 will become zero as R6.4 and R6.5 will be equal but positive and negative respectively.

The dealer shall first pay the tax due and then file online return as per the procedure stated above. Thereafter, he shall apply in DSC1 separately for availing waiver of interest and penalty. The dealer will, however, have to pay the entire tax due, along with proof of the same, to claim the benefit under Amnesty scheme and to file return in form DVAT 16 and CST form -1. In accordance with clause 5(1) of the Scheme, he shall be eligible for immunity from penalty for non-furnishing of return(s) in time.

Objection/Appeal

- Q9. Where objection or Appeal has been partly allowed and case has been remanded, what would be the procedure for VVAS?

The dealer will have to get the remanded case assessed and then avail benefit under the Scheme on the basis of revised order. He may contact the concerned Zonal Additional/ Joint Commissioner to get the remanded order passed at the earliest.

- Q10. Appeal filed before the High Court and Supreme Court cannot be withdrawn unless DSC-3 is issued. And it would not be possible to withdraw appeal before acceptance of VVAS. Can revised guidelines be issued in this regard?

After the declarant dealer has paid the full tax and interest, as applicable, under the VVAS, the Department will issue a letter of intent of issuing DSC-3. After dealer files copy of application of withdrawal of Court case, the Department will issue DSC-3. However, this DSC-3 will get confirmed only when the case is finally withdrawn.

- Q11. In case of remand assessment, the interest is levied upto the date of remand order. Suppose the total demand of a dealer is ₹2 lacs; and the OHA has granted partial relief of ₹10,000/ and remitted the matter to the AC(VAT) for the remaining part of the assessment order. However, in remand assessment, to claim the benefit of this ₹10,000/-; the dealer might have to pay additional interest of ₹30,000/- (i.e. on remaining tax: from the date of original order till the date of remand order). In such a case, can the declarant pay tax dues as per the original assessment order, without getting the remand assessment done as directed by the OHA?

Once the remand assessment order is passed, the original order gets merged in the remanded order and loses its identity; therefore, declarant shall pay tax dues stated in the remand assessment order.

However, where the objection is partly allowed but remand assessment has not been framed till the date of declaration, the declarant can pay tax dues as per the original assessment order, provided the declarant pays full tax and interest as per earlier assessment order and not a part of it.

Penalty

- Q12. Where amount of tax and interest is Rs. 10,000/- and penalty is Rs. 5,000/-. The dealer has already paid Rs.12,000/-. How would DSC-1 be filled since there is excess payment of Rs.2,000/-?

The penalty paid/ partly paid prior to the date of notification of the Scheme will not be allowed to be adjusted. The amnesty benefit would be available only for the balance of penalty.

- Q13. Whether the amount paid towards the stay of demand of penalty can be adjusted towards tax dues? For example, assessment is made for an amount of tax and interest for ₹10,000/-;

and for penalty - ₹5,000/-. The dealer deposited stay amount of ₹2,000/- towards tax; and ₹1,000/- towards penalty. How much amount would be deposited by the declarant under VVAS?

The declarant shall pay ₹7,000/- [10,000/ (-) 2,000/ (-) 1,000/] under VVAS; and get immunity from payment of penalty of ₹5,000/-.

Registration

- Q.14 a) Whether a dealer, whose registration has been cancelled due to any reasons, has neither deposited tax nor furnished return after cancellation, can opt for the amnesty scheme simply by paying the tax dues under the scheme?
- b) Will there be any difference if the objection/appeal against the cancellation order is pending?
- c) If yes, what will be the procedure?

No. There is no provision of summary disposal of restoration application under amnesty scheme. The restoration process has to be through objection only. Moreover, suo-motto cancellation of registration is done in rare cases due to serious violation. Thus, summarily restoring all such cases in amnesty scheme without going into merits may not be possible. However, the dealer can avail of the amnesty scheme as unregistered dealer during the period of cancellation. The dealer is not expected to file the returns for the unregistered period as far as Amnesty scheme is concerned till he gets a new registration or his earlier registration is restored.

- Q15. Can an unregistered dealer/contractee, who has discontinued his business before 31st March 2013, pay tax dues under VVAS without getting registration under the Act (to avoid registration, and then its cancellation)?

Yes, he can pay tax dues under this Scheme. However, where the dealer claims that he is not liable to pay tax under the Act from 1st April 2013 upto the date of declaration, he shall file an affidavit in this regard along with DSC-1. In the affidavit the dealer/ contractee shall indicate his date of liability (date on which his business activities started) and the date on which he ceased to be a dealer/ contractee.

Preparation of DSC-1

- Q16. Whether period of turnover, to which tax dues relates, would be disclosed in DSC-1 by the declarant?

Yes; so that the dealer can be given the benefit of declaration for that period.

- Q17. The Builder, if opts to pay tax @3%, would claim deduction for land from GTO. Will he be required to furnish year wise computation of turnover along with DSC-1?

Yes.

Works Contract/Builder

Q18. A contractee opts for VVAS and pays tax of 3% after obtaining registration. He is not required to file TDS return for the period upto 31.03.2013. His immediate contractor has also not filed his return.

- Since the language of explanation to clause 3(5) is not clear, whether contractor would get immunity from payment of tax, apart from interest and penalty?
- What would be the procedure to disclose the name of the contractor by the contractee, so that contractor could get immunity from tax, etc.?

Yes. If one of the parties either contractee or contractor avails the Scheme and pays 3% tax, then both the parties will get immunity from interest and penalty for the particular contract/part of contract. The contractee has to file the return as per the provisions of the DVAT Act & Rules wherein the name of contractor has to be filled up.

Q19. It has been stated in the VVAS that double taxation has been avoided in works contract transaction. Where the contractee has failed to deduct TDS, but his contractor has paid due taxes and filed returns as prescribed, will the contractee get immunity under this scheme? If yes, what will be the procedure?

Yes, the contractee can get immunity under the VVAS. For this purpose, he shall file DSC-1 along with copy of all returns filed by his contractor along with Form 2B of the contractor. The contractee shall get immunity only of that turnover amount, which is stated by the contractor in Form 2B of his DVAT Return against that contractee. If the contractee does not have TAN under the Act, he shall first obtain TAN under the Act.

Q20. Whether a developer or builder who had entered into agreements with the prospective buyers for sale of flats along with proportionate share of land during the years 2009-10; 2010-11 and 2011-12 can chose to pay tax @ 1% including the value of land for these years and for the year 2012-13 when he had not entered into any agreement with the prospective buyers for sale of his share of flats but had merely undertaken construction for the land owner in lieu of proportionate share of land received from the land owner @3%.

Each year is an independent year. In the year 2009-10; 2010-11 & 2011-12, the developer had merely agreed to sell his flats along with the proportionate land rights. He has the option to pay tax @ 1% on the total consideration including the value of land or 3% on the value of construction excluding the value of land. He cannot be forced to pay tax either @1% or @3%.

So far as the year 2012-13 is concerned, when he had undertaken the construction for the land owner only, obviously he has to pay tax @3%, since he had not transferred the land rights to the land owner which already belonged to the land owner. These are two independent transactions and, therefore, **even for the same year**, a developer can opt to pay tax @1% on total consideration where he agrees to transfer proportionate share of land also alongwith the flats and @3% on the construction undertaken for the land owner.

It is like a dealer selling goods taxable @5% as well as the goods taxable @12.5%. Such a dealer has to pay tax on his sales at the respective rate that applies to such goods.

Q21. Please explain calculation of tax in case of collaboration agreement.

LO = LAND OWNER, BD = BUILDER DEVELOPER, IP = INTENDING PURCHASER

LO entered into a Collaboration Agreement with the BD, for a property. The BD constructs four floors - two would belong to the LO and two to the BD.

- 1) BD would also pay a sum of ₹ 150 to the LO (area of plot being 200 sq. yds, the size of original plot) Total cost of construction for the entire property is ₹ 95 i.e. ₹ 47.5 for the portion of the LO & ₹ 47.5 for the BD's share.
- 2) Total cost for the BD for his share comes to ₹ 150 plus ₹ 95 i.e. ₹ 245.
- 3) BD sells his share for ₹ 300.

| | | | | |
|-----------------------------------|--|---|----------|--------------|
| <p>A</p> | <p>Tax on works contract carried by BD for LO (for two flats)</p> <p>(a) Actual value of construction – ₹ 47.5</p> <p>(b) Circle Rate of construction – ₹ 47.5 (not given; assumed at ₹ 47.5)</p> <p>(c) Circle Rate of Land – Amount paid to LO = ₹ 195 – ₹ 150 = ₹ 45 (Circle Rate of land assumed at ₹ 195 for 50% share of land):</p> <p>Notes:</p> <ul style="list-style-type: none"> - It is assumed that separate conveyance deed for land has neither been executed between LO and BD nor between BD and PB (If separate conveyance deed signed, then value is ascertainable from the same) - Tax shall be payable minimum at circle rate of construction. <p>*It is presumed that ₹ 47.5 comprises of cost of materials and labour and the profit earned on construction.</p> | <p>47.5*</p> <p>(Highest of (a), (b), or (c))</p> | <p>3</p> | <p>1.425</p> |
| <p>B</p> <p>B.1</p> | <p>Tax on works contract carried by BD for IP</p> <p>Two Flats sold during completion of construction</p> <p>Step I. Calculate value of Proportionate Share of Land transferred to BD</p> <p>(a) Amount paid by the BD to LO (+) Value of construction for LO as per (A): ₹150/- (+) ₹47.5 = ₹197.5</p> <p>(b) If (a) is not applicable: then circle rate of Land – ₹195/-</p> <p>Step II. Calculate value of construction (Sale Value – Value of Land) (Sale Deed is ₹ 300/-)</p> <p>(a) If method I.(a) is adopted – then ₹300 – ₹197.5 = ₹102.5/-</p> <p>In case where the land cost cannot be ascertained by above method then it will be calculated on the basis of circle rate of land.</p> | <p>102.5</p> | <p>3</p> | <p>3.075</p> |

| | | | | |
|---|---|--|---|---|
| B.2 | Alternatively Pay tax @1% on ₹300 | (OR) 300 | 1 | 3 |
| C | Total Tax | Tax on works contract as calculated in (A) + tax on works contract as calculated in (B) | | |
| In case the actual cost of construction or actual cost of land is not ascertainable from the book of accounts, circle rates for construction or land shall be taken into account to calculate the VAT liability. | | | | |

- 1) Total cost of construction for the entire property is Rs. 95 i.e. Rs. 47.5 for the portion of the LO & Rs. 47.5 for the BD's share.
- 2) Total cost for the BD for his share comes to Rs. 150 plus Rs. 95 i.e. Rs. 245.
- 3) BD sells his share for Rs. 300.

Inter-State Sales against Form C

Q.22 A dealer had effected Inter-State sale against Form-C and has charged CST @ 2% from the customers. But the dealer has declared less turnover than actual in his return(s). For example, turnover of Inter-State Sale against Form-C was Rs. 200 lakh but declared in return(s) as Rs. 150 lakh. Whether the dealer can declare the remaining Rs. 50 lakh turnover under the Amnesty Scheme? If yes, what would be the rate of tax he has to pay provided the dealer can submit Form-C for the additional turnover being declared under the Amnesty Scheme?

Yes, the dealer can declare the remaining Inter-State sale and the dealer would be taxed @ 2% if the sale is supported by Form-C and GR.