

DRAFT

**DEPARTMENT OF TRADE AND TAXES
GNCT OF DELHI,
EXIM CELL(W-108) 6th FLOOR,
VYAPAR BHAWAN, NEW DELHI-110002**

**Advisory to Embassy, High Commissions and International Organization
regarding VAT Refund**

While processing refunds of Embassies, High Commissions and International Organizations certain discrepancies were observed and due to this reason amount of VAT involved in the invoices were disallowed. The discrepancies observed in certain cases are as under:

1. Refunds claimed twice on the same Invoice No.
2. Claim on Delivery Challan/Quotations(claim can be allowed only against an invoice).
3. Claim on Composition Dealers Invoice, as Composition Dealer are not liable to charge any VAT.
4. Claim on non-return filing dealers/ dealer filing NIL GTO return i.e. refund claimed against purchase from dealers who do not admit that sale.
5. Works Contract Dealers are suppose to show their work contract turnover separately in their DVAT-16 return other than local sale but it is observed that they do not show work contract turnover in the return. Therefore, it become difficult to ascertain whether work contract dealer has filed proper return or not and in some cases output tax found less than the VAT amount claimed, whereas VAT amount claimed should be equal to output tax or more than the output tax.
6. The selling dealers are supposed to mention sale price and VAT separately in the invoice and in some cases it was found that VAT was not calculated separately by the selling dealer. Embassy calculated and claimed VAT on total Sales Price instead of doing reverse calculation to calculate exact VAT amount.
7. Applicable VAT rate 1% but refund claimed at 12.5%.
8. Total taxes paid claimed as VAT refund whereas total taxes paid were inclusive of service tax and cess, etc which cannot be refunded by the VAT Department.
9. Claim on Carbon Copy of the invoice (original is required for VAT claim).
10. Claim on invoices below threshold limit (invoices having less than Rs.5000/- sale value excluding VAT not eligible for claim of VAT refund).
11. Claim on retail invoices/bill whereas selling dealer claims that retail invoice is for the purpose of raising bill whereas for refund selling dealer issues tax invoices to Embassies/International Organizations.

12. Claim against VAT paid in other State.

It is further clarified that the dictionary meaning of refund is 'Pay back money to (someone)'. Hence, in case selling dealers don't file return admitting certain sale in their return, in such cases as per Delhi VAT Act, the department can not pay back/refund the tax that has never been received by the department. However, the department does endeavour to take action against defaulting selling dealers on basis of specific complaints received. You are therefore advised to buy goods from credible dealers only.

This clarification is being issued to ensure that while filing DVAT-23 on-line for claiming refund, due care is taken by the Embassy, High Commissions and International Organization so that claimed amount is allowed expeditiously without any deduction and without any elaborate checks.

Further to Advisory issued vide No.AC/EXIM CELL/W-108/166 dated 03/02/2014, the following guidelines are once again reiterated for the information to Embassy, High Commissions and International Organization.

- i. To comply with Sec (9) (2) (g) of DVAT Act 2004, while making purchases please ensure that TIN no. and name of Embassy/ High Commission/Organization is mentioned in the Invoices so that the selling dealer files the same in the online Form-2B (Sale Details) of his return. This shall be electronically matched with your claim of refund in DVAT-23.
- ii. Please ensure that selling dealers issue retail/tax invoices clearly mentioning the sales price and VAT separately.
- iii. Do not claim VAT in respect of composition dealer as they are not liable to charge VAT.
- iv. No separate Registration No./TIN No. for diplomat/staff is necessary for claiming refund. However, Invoice must contain name of the diplomat/staff as the individual purchaser alongwith TIN No. and the name of the Embassy/ High Commission/ Organization. This is applicable to Embassy/ High Commission/ Organization, whose diplomats/staff are eligible for the refund of VAT claim.
- v. Please note that April to June, July to Sept., Oct to Dec. and Jan. to March are 1st, 2nd, 3rd and 4th quarter respectively as per the Financial Year which may be adhered to while filing DVAT-23. The returns in Form DVAT-23 are to be submitted online within three months from the end of relevant quarter as provided in Rule 35(2) and proviso thereto else it may lead to denial of refund claim.

This issues with the prior approval of the Competent Authority.

No. VATO/EXIMCELL/W-108/913-916

Copy forwarded for information and necessary action to:

(MRINALINI DARSWAL)
SPL. COMMISSIONER

Dt. 21.3.14

1. All Embassies/High Commissions/International Organizations.
2. Dy. Chief of Protocol (P), Ministry of External Affairs, Jawahar Lal nehru Bhawan, Opposite National Museum, Rajpath, New Delhi- 110001.
3. The VATO(Policy), Department of Trade & Taxes, Vyapar Bhawan, I.P. Estate, New Delhi.
4. The Programmer(EDP), Department of Trade & Taxes, Vyapar Bhawan, I.P. Estate, New Delhi to upload instructions on the website of the Department. The list of Embassies/Organisations listed in sixth schedule of DVAT Act, 2004 alongwith unique number may be made available in public domain on website of the department.