**K-VAT compliance – Industrial canteens**

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VAT is a levy on sale of goods. For the purpose, it is usually the seller who would be held liable for payment of VAT. However, there are few exceptions created under the VAT provisions. As per Section 3(2) of KVAT Act 2003, in case there is a sale by an unregistered person to a registered dealer, then the tax shall be paid by such registered dealer who is a buyer of goods. Similarly exceptions are created with respect to collection and payment of tax especially in case of industrial canteen payments in Karnataka VAT provisions. This is mainly to ensure that the Government gets its revenue without much trouble which otherwise could have created trouble as catering industry is not well organised in taxation matters just like construction industry. Such provision was in existence even with respect to purchase of scrap of iron and steel but later on omitted.

***Deduction of Tax at source (TDS) in canteen payments***

As per Section 18 of KVAT Act 2003, in case of a ***factory or other industrial concern or any other establishment***, in which a canteen or cafeteria or restaurant or other similar facility is run through a dealer , then tax at the rate of 4% shall be deducted from the payments to be made to such dealer. However, such deduction would not be required total amount payable is less than Rs.5 lakh in a year. It is interesting to note that the limit of Rs.5 lakh has not been increased even though the limit of registration for normal dealer has been increased to Rs.10 lakh from April 2015.

***Return filing and payment***

The industrial unit or the factory will remit the amount of tax deducted along with the monthly return in Form VAT 126 in the office of LVO where the industrial unit is registered as provided in Rule 44, within 20 days from the end of the month in which the amount of tax is deducted. Further, a certificate of deduction in Form VAT 158 shall be issued within twenty days from the end of the month in which the tax is deducted. The caterer would remit only balance

**Interest liability in case of default**

If there is a default in the payment of tax deducted beyond ten days after the expiry of the period specified under sub-section (3) i.e 20 days after the end of month, the factory or concern or establishment making deduction under sub-section would be liable to pay amount which is equal to the interest specified under sub-section (1) of section 37 i.e 1.5% per month interest shall be paid.

***Few common errors to be avoided***

Following are few of the common errors observed which need to be avoided by the dealers:

1. Non filing of monthly statement in Form 126 though amount of 4% being deducted and paid.
2. Not providing certificate of deduction to caterer in Form 158 even though 4% being deducted and even monthly statements filed.
3. Not deducting 4% amount based on oral instruction of caterer. Caterer may agree to pay tax directly to the department. However, the same may not make the dealer free from compliance of Section 18 as there is no provision providing relaxation.
4. Non compliance of the provision by the service industry under the impression that they need not comply with the provision.

**Conclusion:** All the dealers should make sure that Section 18 of KVAT Act 2003 is complied which otherwise results in demand in form of taxes plus interest and penalty adding to cost of business. Having a system of regular review of KVAT / CST law compliance by a professional could avoid these types of non-compliances.