

# MODALITIES FOR E-II BRANCH

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**ENFORCEMENT-II BRANCH**  
**DEPARTMENT OF TRADE & TAXES**  
**GNCT OF DELHI**  
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**COMMITTED TO TAX-PAYER FRIENDLY ENVIRONMENT**

## FAQs on Checking of Vehicles

### **Q Why the Department Conducts Checking of Vehicles?**

Ans The Checking of Vehicles is conducted to ensure that all the interstate or intrastate transfer of goods from one business unit to another unit is done in compliance with the law i.e. Delhi Value Added Tax Act, 2004 & Central Sales Tax Act, 1956. Every vehicle carrying goods needs to have certain documents prescribed by the law so that the exchequer does not lose due tax revenue on account of business transaction. Over the time evasion of duties on account of transfer of goods without documents has become enormous which affects the revenue collection as well as creates unfair disadvantage to the honest dealer paying proper taxes.

### **Q What are the legal provisions related to Checking of Vehicles**

Ans Sec 61 of the DVAT Act, 2004 states:

#### **Power to stop, search and detain goods vehicles:**

“To enable proper administration of the act, the Commissioner may, at any check post or barrier at any other place, require the owner, driver or person in charge of a goods vehicle to stop the vehicle and keep it stationary so long as may be required to search the vehicle, examine the contents therein and inspect all records relating to the goods carried, which are in the possession of such owner, driver or person in charge.”

The owner, driver or person in charge of a goods vehicle shall accordingly carry with him such records as may be prescribed in respect of the goods carried in the goods vehicle and produce the same before any officer in charge of a check post or banner or any other officer of any agent as may be empowered by the commissioner.

### **Q What are the documents which must be in the vehicles carrying goods at the time of inspection**

Ans The documents which should be carried within the vehicle for satisfying the legal requirements are listed below for different scenarios:

#### Sale within Delhi

- DVAT 32 (GR);
- DVAT 33 (Delivery Challan); and
- Copy of tax/retail invoice

#### Sale outside Delhi

- DVAT 32 (GR);
- DVAT 33(Delivery Challan);
- Copy of retail invoice

### Branch Transfer

- DVAT 32(GR);
- DVAT 33 (Delivery Challan);
- Sale invoice clearly mentioning goods not for sale but for branch transfer and details of the addressee;
- Copy of Purchase Invoice of the goods; and
- Copy of Dealer's RC indicating different premises which should match with recipient's address in invoice.

### Consignment Transfer

- DVAT 32(GR);
- DVAT 33 (Delivery Challan); and
- Copy of Consignment Agreement between the parties

### Job Work

- DVAT 32(GR);
- DVAT 33(Delivery Challan);
- Invoice clearly mentioning goods not for sale but for job work and details of the addressee;
- Copy of Purchase Invoice of the goods; and
- Job Work must be mentioned in the stock register maintained by the Dealer.

### Exports Sale

- Copy of IEC Code of dealer;
- Copy of sale invoice;
- Packing list;
- Copy of Purchase order;
- DVAT 32(GR)
- DVAT 33

### Imports

- Customs Documents which includes the following
  - Bill of Entry
  - Invoice/GR/Airway Bill/ Consignment Note
  - Gate Pass
- GR DVAT 32 issued by transporter from Ware House to Dealer's place of storage

**Q What is the Penalty on the Goods being carried without proper documents?**

**Ans** Penalty is imposed under section 86(19) of DVAT Act 2004. Penalty of 20% (w.e.f. from 12/09/2013) of value of goods is imposed in case of goods are being carried without proper documents/fake documents.

Assistant Commissioner (VAT)/AVATO is the competent authority to impose penalty u/s 86(19) of DVAT Act.

**Q What is the Procedure of Search of Vehicle by the Enforcement Officials**

**Ans** The Team leader will stop the vehicle and call for record from the person-in-charge of the vehicle on the spot. In a summary manner the goods are matched with the records available with the vehicle in-charge. If the documents are found prima facie genuine based on matching of the TIN nos. and other particulars, the vehicle is left to ply otherwise it is detained.

**Q What are commonly observed deficiencies in vehicle checking?**

- Ans**
- Vehicles carry goods without documents
  - Vehicles carry documents without proper TIN Nos in the invoice
  - Improper/incorrect entries in the sale invoice
  - Vehicles plying on a deviant route than the commonly used route for movement from place of origin, as mentioned in GR, to destination
  - Vehicles carry different quantities/types of goods than those mentioned in the documents
  - The documents point to undervaluation of the goods than prevailing value of the goods

**Q What are the main considerations in verification of documents?**

**Ans Documents are checked on the following aspects:**

- Valuation of goods
- Matching of the route by seeing the place of dispatch & destination
- Appearance of documents & checking of TIN no of buyer & seller
- Checking of the documents from the dealer profile from online database
- Matching of particulars mentioned in the documents and those present in the vehicle

**Q What is the procedure of detainment of vehicle?**

Ans The Team Leader gives a “Maal Roko Adesh” ( Detention Order) on which the signature of vehicle-in-charge is taken. The order contains the vehicle registration no, name of person in-charge, name of the team leader and his contact information, reason for detainment along with place of parking. Signature of the vehicle in-charge is also taken on the detainment order.

The statement of the vehicle in-charge and driver is also taken on the spot.

**Q What is the process of release of vehicles?**

- Ans
- The transporter or his representative should apply to the Assistant Commissioner (HQ) Enforcement –II Branch in writing for assessment and release of the vehicles.
  - The inventory of the goods in the vehicle is made by the VATI (Value Added Tax Inspector) in presence of the vehicle-in-charge.
  - Thereafter the assessment of the inventory is done by the Assistant Commissioner and assessment order containing tax deficiency and penalty is made.
  - The transporter or his representative makes the payment against the assessment orders.
  - At present the payment can be deposited in the Punjab & Sind Bank housed in the Vyapar Bhawan. The Department is trying to introduce the system for online payment for Enforcement-II Assessments.
  - Once the vehicle in-charge makes the payment and produce DVAT 20, the Assistant Commissioner passes the release order.
  - Applicant goes to parking spot along with release order and can then take back the possession of the vehicle.
  - Duty hour for assessment and release of vehicle is from **10 am to 6 pm**

**Q. What is the time limit to get the vehicles assessed and released?**

Ans The Department endeavours to release the vehicle within 3 working days of application. For vehicles detained for verification of documents, the vehicle is normally released within 24 hours of detention.

**Q. If the vehicle is having some goods with genuine documents and some goods with doubtful documents, can the vehicle in-charge claim the goods having proper documents before assessment?**

Ans Yes, the vehicle in-charge/owner of goods with proper identification with orders from assessing Assistant Commissioner (E-II) can claim back goods with verified genuine documents by giving an undertaking annexed at the end of FAQ. These released goods can then be taken in a separate vehicle arranged by the claimant.

**Q. How the valuation of the goods is done?**

Ans The tax and penalty is imposed on the value of the goods u/s 86(19) of the DVAT Act, 2004. The "Value of the Goods" has been defined in Sec 2(zn) which states-  
"value of the goods" means the fair market value of the goods at that time including insurance charges, excise duties, countervailing duties, tax paid or payable under the Central Sales Tax Act, 1956 in respect of the sale, transport charges, freight charges and all other charges incidental to the transaction of the goods.

U/s 2(l) "fair market value" means the value at which goods of like kind and quality are sold and would be sold in the same quantities between unrelated parties in the open market in Delhi.

Considering the definitions provided in the Act, the valuation becomes a highly subjective exercise as all the goods items are having different market characteristics and even similar class of goods have different quality standards and brand value/perceptible image associated with it. Hence, an elaborate exercise needs to be undertaken to accurately assess the value of goods.

However, if for any goods vehicle, a detailed exercise for arriving at proper valuation under the Act is carried out, it would only become too time consuming which can result in prolonged detention of the goods vehicles and result in increased demurrage charges, depreciation in the value of the goods kept inside the vehicle. Besides, detained goods and goods vehicle are a loss of economic value. Hence, the Department has tried to balance the pros and cons.

In order to arrive at proper valuation, the Assessing Officers are authorised to take the MRP printed on the cover of the particles as a benchmark and then in order to arrive at proper valuation, in practice Assessing Officer make valuation of the goods in the band of 10%-30% lesser than the MRP printed on the item.

If the applicant differs from the valuation arrived from the above method, then he can produce evidence of his claim to the satisfaction of the Assessing Officer by submitting an affidavit along with a certification from any registered tax-paying dealer of Delhi dealing in same commodity and having GTO in the past financial year more than Rs 1cr as to the valuation of goods.

**Q. If the dealer is not satisfied with the valuation, what options are available before him?**

**Ans** The dealer may file an Objection us/ 74 before an Objection Hearing Authority defined under the DVAT Act, 2004, and/or prefer appeal to VAT Tribunal, Delhi High Court, or Supreme Court of India (Please refer to Chapter XII of the DVAT Act, 2004 for further details)

**Q. What is the process in case vehicles are not reclaimed by the Transporter?**

**Ans** Under the provisions of Sec 63 of the DVAT Act, 2004 and Rule 41 of the DVAT Rules, 2005, the Department after waiting for sufficient time on case to case basis, normally for one month, conduct the default assessment of the vehicles in presence of independent witnesses and then conduct the sale of properties seized to realise the due tax and penalty as per the Act.

**Q Who can be contacted in case of complaint of harassment?**

**Ans** The senior officers in-charge of Enforcement-II can be contacted in cases of harassment. Their particulars are:

- **Dr(Mrs) Mrinalini Darswal, Special Commissioner (Enforcement)**  
3<sup>rd</sup> Floor Vyapar Bhawan, I.P. Estate Delhi  
Ph: 011-23312079
- **Sh Kunal, Additional Commissioner (Enforcement-II)**  
10th Floor, Vyapar Bhawan, I.P. Estate Delhi  
Ph: 011-23318021

Email: [e2dvat@gmail.com](mailto:e2dvat@gmail.com)

Department Phone No (011) 23352310-14

**UNDERTAKING FOR CUSTODY OF GOODS WITH GENUINE BILLS  
WITH RESPECT TO VEHICLE DETAINED BY ENFORCEMENT TEAM OF  
TRADE & TAXES DEPARTMENT  
(On Non-judicial stamp paper)**

**Before Assistant Commissioner Sh \_\_\_\_\_**

Item		Item	Description
Name of applicant		Identity Card No	
Address			
Vehicle Regn No & Model		Vehicle Detainment Date	
Name of Driver		Driving License No	
Name of Transporter		Contact No of Transporter	
Address of Transporter			

**Details of Bills for Which Goods Custody is Required**

S.No.	1	2	3	4	5	6
Goods Description						
No of Packs						
Weight /Quantity of Goods						
Value (Rs)						
Sellers TIN No						
Buyers TIN No						
GR No						
GR Date						
Delivery Note No						
Delivery Note Date						

### **VERIFICATION**

I, \_\_\_\_\_ son/daughter of \_\_\_\_\_, holding ID No \_\_\_\_\_, issued by \_\_\_\_\_ solemnly declare to the best of my knowledge and belief, the information given above is correct and complete and is truly stated in accordance with law and nothing has been hidden.

Date: \_\_\_\_\_

Place: **Delhi**

**Sign**

**Note:**

- 1. Submitting false information is an offence.**
- 2. Submit photocopies Identity Card of Applicant, Driving Licence of Driver, Vehicle Registration No, GRs, Delivery Notes**

**STATUTORY PROVISIONS RELATED TO GOODS VEHICLES & TRANSPORTERS under  
DELHI VALUE ADDED TAX ACT, 2004**

<b>Section</b>	<b>Description</b>
<b>Sec 2(l)</b>	<b>fair market value</b> means the value at which goods of like kind and quality are sold or would be sold in the same quantities between unrelated parties in the open market in Delhi;
<b>Sec 2(n)</b>	<b>goods vehicle</b> means a motor vehicle, vessel, boat, animal and any other form of conveyance used for carrying goods
<b>Sec 2(zk)</b>	<b>transporter</b> means any person who, for the purposes of or in connection with or incidental to or in the course of his business transports or causes to transport goods, and includes any person whose business consists of or includes operating a railway, shipping company, air cargo terminal, inland container depot, container freight station, courier service or airline;
<b>Sec 2(zn)</b>	<b>value of goods</b> means the fair market value of the goods at that time including insurance charges, excise duties, countervailing duties, tax paid or payable under the Central Sales Tax Act, 1956 (74 of 1956) in respect of the sale, transport charges, freight charges and all other charges incidental to the transaction of the goods;
<b>Sec 3(9)</b>	If any person who transports goods or holds goods in custody for delivery to or on behalf of any person, on being required by the Commissioner so to do, fails <p style="margin-left: 40px;">(a) to furnish any information in his possession in respect of the goods; or</p> <p style="margin-left: 40px;">(b) fails to permit inspection thereof; then without prejudice to any other action which may be taken against such person, a presumption may be raised that the goods in respect of which he has failed to furnish information or permit inspection, are owned by him and are held by him for sale in Delhi and the provisions of this Act shall apply accordingly.</p>
<b>Sec 48(5)</b>	The Commissioner may, by notification in the official Gazette, direct any class of dealers, transporters or operators of warehouses to keep such accounts (including records of purchases and sales) as may be specified in the notification.
<b>Sec 59.</b>	<b>Inspection of records.-</b> <p>(1) All records, books of accounts, registers and other documents, maintained by a dealer, transporter or operator of a warehouse shall, at all reasonable times, be open to inspection by the Commissioner.</p> <p>(2) The Commissioner may, for the proper administration of this Act and subject to such conditions as may be prescribed, require</p>

	<p>(a) any dealer; or</p> <p>(b) any other person, including a banking company, post office, a person who transports goods or holds goods in custody for delivery to, or on behalf of any dealer, who maintains or has in his possession any books of accounts, registers or documents relating to the business of a dealer, and, in the case of a person which is an organisation, any officer thereof; to</p> <p>(i) produce before him such records, books of account, registers and other documents;</p> <p>(ii) answer such questions; and</p> <p>(iii) prepare and furnish such additional information; relating to his activities or to the activities of any other person as the Commissioner may deem necessary.</p> <p>(3) The Commissioner may require a person referred to in sub-section (2) above, to</p> <p>(a) prepare and provide any documents; and</p> <p>(b) verify the answer to any question; in the manner specified by him.</p> <p>(4) The Commissioner may retain, remove, take copies or extracts, or cause copies or extracts to be made of the said records, books of account, registers and documents without fee by the person in whose custody the records, books of account, registers and documents are held.</p>
<p><b>Sec 60</b></p>	<p><b>Power to enter premises and seize records and goods.-</b></p> <p>(1) All goods kept at any business premises by a dealer, transporter or operator of a warehouse shall at all reasonable times be open to inspection by the Commissioner.</p> <p>(2) Where the Commissioner, upon information in his possession or otherwise has reasonable grounds to believe that any person or dealer is attempting to avoid or evade tax or is concealing his tax liability in any manner and for the purposes of administration of this Act, it is necessary so to do, the Commissioner may-</p> <p>(a) enter and search any business premises or any other place or building;</p> <p>(b) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by clause (a) where the keys thereof are not readily available;</p> <p>(c) seize and remove any records, books of account, registers, other documents or goods;</p> <p>(d) place marks of identification on any records, books of account,</p>

	<p>registers and other documents or make or cause to be made extracts or copies thereof without charge;</p> <p>(e) make a note or any inventory of any such money or goods found as a result of such search or place marks of identification on such goods; and</p> <p>(f) seal the premises including the office, shop, godown, box, locker, safe, almirah or other receptacle.</p> <p>(3) Where it is not feasible to remove any records, books of account, registers, other documents or goods, the Commissioner may serve on the owner and any person who is in immediate possession or control thereof, an order that he shall not remove or part with or otherwise deal with them except with the previous permission of the Commissioner.</p> <p>(4) Where any premises have been sealed under clause (f) of sub-section (2), of this section or an order made under sub-section (3) of this section, the Commissioner may, on an application made by the owner or the person in occupation or in charge of such shop, godown, box, locker, safe, almirah or other receptacle, permit the de-sealing or release thereof, as the case may be, on such terms and conditions including furnishing of security for such sum in such form and manners as may be directed.</p> <p>(5) The Commissioner may requisition the services of any police officer or any public servant, or of both, to assist him for all or any of the purposes specified in sub-section (2) of this section.</p> <p>(6) Save as otherwise provided in this section, every search or seizure made under this section shall as far as possible be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code.</p> <p><b>Explanation.-</b> The powers under this section may also be exercised in respect of a dealer or a third party for the purposes of undertaking an audit or to assist in recovery.</p>
<p><b>Sec 61</b></p>	<p><b>Power to stop, search and detain goods vehicles.-</b></p> <p>(1) To enable proper administration of this Act, the Commissioner may, at any check-post or barrier or at any other place, require the owner, driver or person in charge of a goods vehicle to stop the vehicle and keep it stationary so long as may be required to search the vehicle, examine the contents therein and inspect all records relating to the goods carried, which are in the possession of such owner, driver or person in charge.</p> <p>(2) The owner, driver or person in charge of a goods vehicle shall carry with him such records as may be prescribed in respect of the goods carried in the goods vehicle and produce the same before any officer in charge of a check post or barrier or any other officer or any agent as may be empowered by the Commissioner.</p>

(2A) The owner, driver or person in charge of a goods vehicle entering or leaving Delhi shall also file a declaration containing such particulars in the prescribed form obtainable from the Commissioner and in such manner as may be prescribed, before the officer in charge of a check post or barrier or before any other officer or agent empowered as aforesaid:

**PROVIDED that** where the owner, driver or person in charge of a goods vehicle, after filing a declaration at the time of entering Delhi that the goods are meant to be carried to a place outside Delhi, fails, without reasonable cause, to carry such goods outside Delhi within the prescribed period, he shall, in addition to the payment of tax, if any, be liable to a penalty not exceeding two and a half times the tax that would have been payable had the goods been sold inside Delhi or one thousand rupees, whichever is more.

(3) The owner, driver or person in charge of the goods vehicle shall, if required, inform the Commissioner of

- (a) his name and address;
- (b) the name and address of the owner of the vehicle;
- (c) the name and address of the consignor of the goods;
- (d) the name and address of the consignee of the goods; and
- (e) the name and address of the transporter.

(4) If, on an examination of the contents of a goods vehicle or the inspection of documents relating to the goods carried, the Commissioner has reason to believe that the owner or driver or person in charge of such goods vehicle is not carrying the documents as required by sub-section (2) of this section or is not carrying proper and genuine documents or is attempting to evade payment of tax due under this Act, he may, for reasons to be recorded in writing, do any one or more of the following, namely:-

- (a) refuse to allow the goods or the goods vehicle to enter or leave Delhi;
- (b) seize the goods and any documents relating to the goods; and
- (c) seize the goods vehicle and any documents relating to the goods vehicle.

(5) Where the owner, driver or the person in charge of the goods vehicle

- (a) requests time to adduce evidence of payment of tax in respect of the goods to be detained or impounded; and
- (b) furnishes security to the satisfaction of the Commissioner in such form and in such manner as may be prescribed for the prescribed amount; the goods vehicle, the goods and the documents so seized may be released.

	<p><b>PROVIDED that</b> where the owner or his agent, driver or person in charge of the goods vehicle exercises the option of paying by way of penalty, a sum equal to three and a half times the tax, which in the opinion of the Commissioner, would be leviable on such goods, if such goods were sold in Delhi, the Commissioner instead of detaining or impounding the goods or the goods vehicle or the documents relating to the goods and goods vehicle shall release the same.</p> <p>(6) The Commissioner may permit the owner, driver or person in charge of goods vehicle to remove any goods or goods vehicle seized under sub-section (4) subject to an undertaking</p> <p>(a) that the goods and goods vehicle shall be kept in the office, godown or other place within Delhi, belonging to the owner of the goods vehicle and in the custody of such owner; and</p> <p>(b) that the goods shall not be delivered to the consignor, consignee or any other person without the approval in writing of the Commissioner, and for this purpose the person in charge of the goods vehicle shall furnish an authorization from the owner of the goods vehicle authorizing him to give such undertaking on his behalf.</p> <p>(7) Save as otherwise provided in this section, every search or seizure made under this section shall as far as possible be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 (2 of 1974) relating to searches or seizures made under that Code.</p> <p>(8) Nothing contained in this section shall apply to the rolling stock as defined in the Railway Act 1989 (24 of 1989).</p>
<p><b>Sec 63</b></p>	<p><b>Custody, return and disposal of goods, goods vehicle and security.-</b></p> <p>(1) Where the Commissioner seizes any goods or goods vehicle, he shall give the dealer, person in charge of the goods vehicle or a person present on his behalf, as the case may be, a receipt for the same and obtain acknowledgement of the receipt so given to him:</p> <p><b>PROVIDED that</b> if the person from whose custody the goods or goods vehicle are seized refuses to give an acknowledgement, the Commissioner may leave the receipt in his presence and record this fact.</p> <p>(2) The Commissioner</p> <p>(a) shall keep any goods or goods vehicle seized under section 61 in his custody;</p> <p>(b) may retain them for such time as he considers reasonable; and</p> <p>(c) subject to sub-section (3) of this section, shall return the goods or goods vehicle to the dealer or other person from whose custody or power they were seized.</p> <p>(3) Where the Commissioner -</p> <p>(a) has seized any goods;</p>

	<p>(b) has seized a goods vehicle; or</p> <p>(c) holds any goods as security for the performance of an obligation under this Act; the Commissioner may, not sooner than one month after the service of notice on</p> <p>(i) the person from whom the goods were seized;</p> <p>(ii) the person from whom the goods vehicle was seized;</p> <p>(iii) the person for whom the security was given; and</p> <p>(iv) any person against whom the security is to be enforced; as the case may be, of his intention to sell the goods, direct the auction of such goods or goods vehicle to meet any arrears of tax, interest or penalty owed under this Act.</p> <p>(4) An auction of goods or a goods vehicle shall be carried out in the manner prescribed for the sale of property held by the Commissioner.</p>
<p><b>Sec 86</b></p>	<p><b>Penalties.-</b></p> <p>(1) In this section tax deficiency means the difference between the tax properly payable by the person in accordance with the provisions of this Act and the amount of tax paid by the person in respect of a tax period.</p> <p>(2) The Government may, from time to time, if it deems it necessary, vary the amount of any penalty due under this section by a notification to that effect in the official Gazette:</p> <p><b>PROVIDED that</b> any penalty which is increased under this section shall have effect only for offences or failures occurring after the date of such notification;</p> <p><b>PROVIDED FURTHER that</b> the penalty imposed under this section can be remitted where a person is able to prove existence of a reasonable cause for the act or omission giving rise to penalty during objection proceedings under section 74 of this Act.</p> <p>(3) Where two or more penalties arise under this Act in respect of the same conduct of a person, the person shall be liable to pay only the greater penalty.</p> <p>(4) Where a person who is required to be registered under this Act has failed to apply for registration within one month from the day on which the requirement arose, the person shall be liable to pay, by way of penalty, an amount equal to one thousand rupees per day from the day immediately following the expiry of the said period until the person makes an application for registration in the prescribed form, containing such particulars and information and accompanied by such fee, security and other documents as may be prescribed:</p> <p><b>PROVIDED that</b> the amount of penalty payable under this sub-section shall not exceed one lakh rupees.</p> <p>(5) If, a registered dealer fails to comply with the provisions of sub-</p>

	<p>section (1) of section 21 of this Act, the person shall be liable to pay, by way of penalty, a sum of one hundred rupees per day of default subject to a maximum of five thousand rupees.</p> <p>(6) If a registered dealer</p> <p>(a) fails to comply with the provisions of sub-section (2) of section 22 of this Act; or</p> <p>(b) fails to surrender his certificate of registration as provided in sub-section (7) of section 22 of this Act; the registered dealer shall be liable to pay, by way of penalty, a sum equal to one hundred rupees for every day of default subject to a maximum of five thousand rupees.</p> <p>(7) If any person falsely represents that he is registered as a dealer under this Act, he shall be liable to a penalty equal to the amount of tax wrongly collected or one lakh rupees, whichever is the greater.</p> <p>(8) Where a person</p> <p>(a) has applied for registration under sub-section (4) of section 18 of this Act;</p> <p>(b) has been registered; and either</p> <p>(i) has failed to undertake activities which would make the person a dealer within the period specified in his application; or</p> <p>(ii) has failed to comply with any of the restrictions or conditions subject to which such registration was granted, the person shall be liable to pay a penalty of ten thousand rupees.</p> <p>(9) If a person required to furnish a return under Chapter V of this Act</p> <p>(a) fails to furnish any return by the due date; or</p> <p>(b) fails to furnish with a return any other document that is required to be furnished with the return; or</p> <p>(c) being required to revise a return already furnished, fails to furnish the revised return by the due date; the person shall be liable to pay, by way of penalty, a sum of one hundred rupees per day from the day immediately following the due date until the failure is rectified:</p> <p><b>PROVIDED that</b> the amount of penalty payable under this sub-section shall not exceed ten thousand rupees.</p> <p>(10) Any person who</p> <p>(a) furnishes a return under this Act which is false, misleading or deceptive in a material particular; or</p> <p>(b) omits from a return furnished under this Act any matter or thing without which the return is false, misleading or deceptive in a material particular; shall be liable to pay, by way of penalty, a sum of ten thousand rupees or the amount of the tax deficiency, whichever is</p>
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	<p>the greater.</p> <p>(11) Any dealer who</p> <p>(a) has claimed tax credit under section 14 of this Act to which he is not entitled; or</p> <p>(b) has claimed a greater tax credit under section 14 than is allowed; shall be liable to pay, by way of penalty, an amount equal to the amount of tax credit so claimed or ten thousand rupees, whichever is the greater.</p> <p>(12) Where a tax deficiency arises in relation to a person, the person shall be liable to pay, by way of penalty, a sum equal to one per cent of the tax deficiency per week or a sum equal to rupees one hundred per week, whichever is higher, for the period of default.</p> <p>(13) Where a person is required under this Act to</p> <p>(a) prepare records or accounts; or</p> <p>(b) prepare records or accounts in a prescribed manner; or</p> <p>(c) retain records or accounts; and the person</p> <p>(i) fails to prepare the required records and accounts; or</p> <p>(ii) fails to prepare records and accounts in the prescribed manner; or</p> <p>(iii) fails to retain the records and accounts for the prescribed period; the person shall be liable to pay, by way of penalty, a sum of fifty thousand rupees or twenty per cent of the tax deficiency, if any, whichever is greater.</p> <p>(14) Any person who fails to comply with the requirement under sub-section (2) or sub-section (3) of section 59 of this Act shall be liable to pay, by way of penalty, a sum of fifty thousand rupees.</p> <p>(15) Where a person who is required to prepare records and accounts under this Act, prepares records and accounts in a manner that is false, misleading or deceptive, the person shall be liable to pay, by way of penalty, a sum of one lakh rupees or the amount of the tax deficiency, if any, whichever is greater.</p> <p>(16) Where a person</p> <p>(a) has issued a tax invoice or retail invoice with incomplete or incorrect particulars; or</p> <p>(b) having issued a tax invoice or retail invoice, has failed to account it correctly in his books of account; the person shall be liable to pay, by way of penalty, an amount of five thousand rupees or twenty per cent of the tax deficiency, if any, whichever is greater.</p> <p>(17) Where a person who is not authorised under this Act to issue a tax invoice has issued a tax invoice for a sale, the person shall be liable to</p>
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	<p>pay, by way of penalty, an amount of one lakh rupees or the tax deficiency, if any, whichever is greater.</p> <p>(18) If any dealer liable to have his accounts audited under section 49 of this Act fails to furnish a true copy of such report within the prescribed time, the person shall be liable to pay, by way of penalty, a sum of ten thousand rupees.</p> <p>(19) Where goods are being carried by a transporter without the documents or without proper and genuine documents or without being properly accounted for in the documents referred to in sub-section (2) of section 61 of this Act, the transporter shall be liable to a penalty equal twenty paise in a rupee for the value of such goods</p> <p>(20) Any person who</p> <p style="padding-left: 20px;">(a) makes a statement to the Commissioner which is false, misleading or deceptive in a material particular; or</p> <p style="padding-left: 20px;">(b) omits from a statement made to the Commissioner any matter or thing without which the statement is false, misleading or deceptive in a material particular; the person shall be liable to pay, by way of penalty, a sum of fifty thousand rupees, or the amount of the tax deficiency, whichever is greater.</p> <p><b>Explanation.-</b> The liability to pay a penalty and the amount of the penalty may be the subject of an objection under section 74 of this Act.</p> <p>(21) Where a casual trader who is required to be registered under this Act has failed to apply for registration within stipulated period, the casual trader shall be liable to pay, by way of penalty, an amount equal to five thousand rupees per day, from the day immediately following the expiry of the due date until the person makes an application for registration under this Act :</p> <p><b>PROVIDED that</b> the amount of penalty payable under this sub-section shall not exceed one lakh rupees.</p> <p>(22) If a casual trader required to furnish a return under this Act</p> <p style="padding-left: 20px;">(a) fails to furnish any return by the due date; or</p> <p style="padding-left: 20px;">(b) fails to furnish with a return any other document that is required to be furnished with the return;</p> <p>the person shall be liable to pay, by way of penalty, a sum of one thousand rupees per day from the day immediately following the due date until the failure is rectified:</p> <p><b>PROVIDED that</b> the amount of penalty payable under this sub-section shall not exceed ten thousand rupees.</p> <p>(23) Where any person who, whether as principal, agent or in any other capacity organizes any exhibition-cum-sale in Delhi and fails</p> <p style="padding-left: 20px;">(a) to furnish any information in respect of the goods brought or kept</p>
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	<p>in stock or sold by any participant before or during or after the exhibition-cum-sale; or</p> <p>(b) to ensure that all such participants in the exhibition-cum-sale have obtained registration under this Act and paid due tax; or</p> <p>(c) to permit inspection of the business premises or goods or account and records of the participants; or</p> <p>(d) to permit inspection of the accounts and records of the organizer in respect of the exhibition-cum-sale;</p> <p>such person shall be liable to pay, by way of penalty, a sum equal to fifty thousand rupees or a sum equal to the amount of tax payable on such goods if such goods were sold in Delhi, whichever is greater.</p>
<p><b>Sec 89</b></p>	<p><b>Offences and criminal penalties.-</b></p> <p>(1) Whoever</p> <p>(a) not being a registered dealer, falsely represents that he is or was a registered dealer at the time when he sells or buys goods;</p> <p>(b) knowingly keeps false account or does not keep the account of the value of the goods bought or sold by him in contravention of section 48,; or</p> <p>(c) issues to any person a false invoice, bill, cash-memorandum, voucher or other document which he knows or has reason to believe to be false; shall, on conviction, be punished with rigorous imprisonment for a term which may extend to six months, and with a fine.</p> <p>(2) Whoever knowingly</p> <p>(a) furnishes a false return;</p> <p>(b) produces before the Commissioner, false bill, cash-memorandum, voucher, declaration, certificate, tax invoice or other document for claiming deduction on tax credit; or</p> <p>(c) produces false accounts, registers or documents or knowingly furnishes false information; shall</p> <p>(i) in case where the amount of tax which could have been evaded if the false return, bill, cash-memorandum, voucher, declaration, certificate, tax invoice or other document for claiming deduction on tax credit, accounts, registers or documents or false information, as the case may be, had been accepted as true exceeds fifty thousand rupees, on conviction, be punished with rigorous imprisonment for a term which may extend to six months ; and</p> <p>(ii) in any other case, with rigorous imprisonment for a term which</p>

	<p>may extend to six months, and with a fine.</p> <p>(3) Whoever, willfully attempts, in any manner whatsoever, to evade payment of tax, penalty or interest or all of them under this Act, shall, on conviction, be punished</p> <p>(a) in any case where the amount involved exceeds fifty thousand rupees during the period of a year, with rigorous imprisonment for a term which may extend to six months, and with a fine; and</p> <p>(b) in any other case, with rigorous imprisonment for a term which may extend to three months and with a fine.</p> <p>(4) Whoever</p> <p>(a) carries on business as a dealer without being registered in willful contravention of sub-section (1) of section 18 of this Act;</p> <p>(b) fails without sufficient cause to furnish any information required under section 21 of this Act;</p> <p>(c) fails to surrender his certificate of registration as provided in sub-section (7) of section 22 of this Act;</p> <p>(d) fails without sufficient cause to furnish any returns as required under section 27 of this Act by the date or in the manner prescribed;</p> <p>(e) without reasonable cause, contravenes any of the provisions of section 40 of this Act;</p> <p>(f) without sufficient cause fails to issue invoice as required under section 50 of this Act;</p> <p>(g) fails without sufficient cause, when directed so to do under section 48 of this Act to keep any accounts or record, in accordance with the directions;</p> <p>(h) fails without sufficient cause, to comply with any requirements made of him under section 59 of this Act, or obstructs any officer making inspection or search or seizure under sections 60 and 61 of this Act;</p> <p>(i) obstructs or prevents any officer performing any function under Chapter X of this Act;</p> <p>(j) being owner in charge of a goods vehicle fails, neglects or refuses to comply with any of the requirements contained in section 61 of this Act; or</p> <p>(k) interferes with or obstructs the Commissioner or any officer exercising any other power conferred under this Act;</p> <p>shall, on conviction, be punished with imprisonment for a term which may extend to six months, and with a fine.</p> <p>(5) Whoever aids or abets any person in the commission of any act specified in sub-sections (1) to (3) of this section shall, on conviction, be</p>
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	<p>punished with rigorous imprisonment which may extend to six months, and with a fine.</p> <p>(6) Whoever commits any of the acts specified in sub-sections (1) to (5) of this section and the offence is a continuing one under any of the provisions of these sub-sections, shall, on conviction, be punished with a fine of not less than one hundred rupees per day during the period of the continuance of the offence, in addition to the punishments provided under this section.</p> <p>(7) Notwithstanding anything contained in sub-sections (1) to (5) of this section, no person shall be proceeded under these sub-sections if the total amount involved is less than two hundred rupees during the period of a year.</p> <p>(8) Where a dealer is accused of an offence specified in sub-sections (1), (2) or (3) or in clauses (a), (b), (c), (d), (e), (f), (g), (h) and (i) of sub-section (4), or sub section (6) of this section the person deemed to be the manager of the business of such dealer under section 95 shall also be deemed to be guilty of such offence, unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission thereof.</p>
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## **COMMONLY USED PROVISIONS BY E-II BRANCH**

### **(A) Power to stop, search and detain goods vehicles: (Section 61 of DVAT Act 2004)**

“To enable proper administration of the act, the Commissioner may, at any check post or barrier at any other place, require the owner, driver or person in charge of a goods vehicle to stop the vehicle and keep it stationary so long as may be required to search the vehicle, examine the contents therein and inspect all records relating to the goods carried, which are in the possession of such owner, driver or person in charge.”

The owner, driver or person in charge of a goods vehicle shall carry with him such records as may be prescribed in respect of the goods carried in the goods vehicle and produce the same before any officer in charge of a check post or banner or any other officer of any agent as may be empowered by the commissioner.

### **(B) Record to be carried by a person in-charge of a goods Vehicle under provisions of 43 of DVAT Rules, 2005**

The owner, driver or person in charge of the goods vehicle shall carry the transport receipt in form DVAT-32 (Copy Enclosed), sale invoice or delivery note in form DVAT-33 (Copy Enclosed) and as the case may be, export declaration in form DVAT 34 (Copy Enclosed), import declaration in form DVAT-35 (Copy Enclosed) or transit slip in form DVAT 35A (Copy Enclosed).

\*(not made applicable: Import declaration, Export declaration transit slip.)

### **(C) Penalty**

- Penalty is imposed u/s 86(19) of DVAT Act 2004.
- Penalty 20% of value of goods is imposed in case of goods are being carried without proper documents.
- Assistant Commissioner/AVATO is the competent authority to impose penalty u/s 86(19) of DVAT Act.

## **STANDARD OPERATING PROCEDURE for E-II BRANCH**

### **1.1. Standard Operating Procedure for Search of Vehicles:-**

- 1.1.1. Sec 61 of DVAT Act, 2004 empowers to stop, search and detain goods vehicle.
- 1.1.2. A checklist of documents be prepared which needs to be ticked if available with the person in-charge of vehicle on the spot
- 1.1.3. In a summary manner goods be matched with the declaration challan carried by the driver which has summary of invoices GR wise on sample basis.
- 1.1.4. List of all inspected vehicles be made and a slip in this regard be issued to all vehicles whether released or impounded.
- 1.1.5. All the documents of the vehicle has to be scanned by a vehicle mounted scanner for further record keeping purpose. ( to be implemented later)
- 1.1.6. A daily return of all inspected vehicles be submitted to the ACTT(E-II) for information by ASSISTANT COMMISSIONER(Hqr)(E-II)

### **1.2. Standard Operating Procedure for Detaining the Vehicles**

- 1.2.1. A Seizure Memo be given to the owner/driver/vehicle-in-charge after detaining the vehicle. It must have name, address, phone no of Assistant Commissioner/AVATO in charge of the team.
- 1.2.2. An order be issued for detaining the vehicle clearly specifying the reasons and a copy of which be given to to the owner/driver/vehicle-in-charge after detaining the vehicle. The order must have the list of documents available with the owner/driver/vehicle-in-charge.
- 1.2.3. Seizure of driving license of the driver alongwith the registration certificate (RC) must be made and a separate seizure memo be made. RC will be returned to the owner after passing of release order. Driving license of the driver be released after the vehicle reaches the parking spot and driver makes the entry in the Parking Site Log Book.
- 1.2.4. The vehicle must be accompanied by one of the team member. If there are more vehicles seized than the staff available with the team, the Team In-Charge may suitably decide the ways and means to escort the vehicles to the Parking Site.

### **1.3. Standard Operating Procedure for Assessment of Tax & Penalty:-**

- 1.3.1. The transporter or his properly authorised representative with valid identity proof for each individual case will submit an application for release of goods vehicle. The Assistant Commissioner (Hqr) E-II on the basis of application shall issue a tentative date, time on the basis of engagement of VATIs to the applicant for preparation of inventory of the vehicle.

- 1.3.2. The inventory of the articles in the vehicle be prepared by VATI within shortest possible time in the presence of applicant and get their signatures after making inventory. If all VATIs are engaged in inventory preparations, Assistant Commissioner (Hqr-E-II) may requisition services of other VATI.
- 1.3.3. The process of inventory preparation be photographed and videographed by using suitable camera or under CCTV surveillance.
- 1.3.4. Within 24 hours of the inventory making by the VATI, the Assistant Commissioner/AVATO shall pass the assessment order in presence of the applicant and shall get their signature on the assessment order. If the applicant refuses to sign the order, the Assistant Commissioner/AVATO shall record the same on the assessment order.
- 1.3.5. The Assistant Commissioner shall try to gather the wholesale market price of the goods based on local enquiry/internet/newspaper/govt agencies like Civil Supplies, Agricultural Marketing Board etc. For both branded and unbranded goods effort must be made to get the prices either from returns filed by the reputed dealers for which the help of Ward Assistant Commissioners may be taken.
- 1.3.6. Penalty equals to 20% of the value of goods be imposed u/s 86(19) of DVAT Act, 2004

#### **1.4. Standard Operating Procedure for the Release of the Vehicle:-**

- 1.4.1. Tax & Penalty after assessment will be deposited by the applicant in Punjab & Sind Bank Branch, Vyapar Bhawan till the time online module for acceptance of payment module of E-II cases is made operational.
- 1.4.2. Name, address, PAN/TIN of trader/transporter/driver shall be mentioned in the challan form at the time of deposit in the Bank. The record shall be maintained dealer-wise and transporter wise through software.
- 1.4.3. The Team in-charge shall take self-attested copy of PAN/TIN or Identity Proof from the applicant and prepare release order for the vehicle at the earliest based on proof of payment and communicate the same to the Parking Spot In-charge.
- 1.4.4. The Parking Spot In-Charge shall release the detained vehicle on the basis of release order after making necessary entry in the log book and shall take signature of the applicant before releasing the vehicle. A report of same be sent to the Assistant Commissioner (Hqr).
- 1.4.5. The Branch shall maintain a separate file for all the vehicles and keep them safely and securely.

## **DISCLAIMER**

THE FAQs AND OTHER DOCUMENTS PLACED IN THE MODALITIES ARE FOR INFORMATION PURPOSE ONLY AND FOR THE GUIDANCE OF THE GENERAL PUBLIC AND TRANSPORTERS IN PARTICULAR TO ENSURE THAT IN TRANSPORTATION OF THE GOODS PROVISIONS OF THE DELHI VALUE ADDED TAX ACT, 2004 AND DELHI VALUE ADDED TAX RULES, 2005 WILL BE PROPERLY FOLLOWED AND THEY SHOULD NOT MAKE ANY MISTAKE.

ALL THE DOCUMENTS PRESENTED HERE ARE FOR GUIDANCE ONLY AND CARE HAS BEEN MADE TO ENSURE THAT NO OMISSION OR CONFLICT SHOULD BE THERE FROM THE LEGAL PROVISIONS. IN CASE OF ANY CONFLICT BETWEEN ANY DETAILS GIVEN IN THE MODALITIES FOR THE E-II BRANCH AND THE DELHI VALUE ADDED TAX ACT, 2004, DELHI VALUE ADDED TAX RULES, 2005 OR ANY OTHER LAW BEING IN FORCE, THE APPLICABLE LAWS & RULES SHALL PREVAIL.

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