

VAT Deduction at Source (VDS) Guideline

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VAT deduction at source (VDS) is a very important matter of today to all of them who are engaged in economic activities. VDS is one of the much talked about component of our VAT system. In our VAT system, input tax credit (rebate), export, audit, accounts are some other important components. Many of the organizations require knowing the rules and procedures regarding VDS to perform their activities specially procurement works smoothly and fairly. The supplier of the goods and services and the recipient of the supply both require knowing the matters like on which purchase VDS requires to be deducted, what should be the rate of deduction, what should be done following deduction, on what purchases VDS does not require to be deducted etc. VDS is also known as withholding VAT. The entities who are entitled to deduct VDS they are called withholding entity. As per VAT law, the supplier and withholding entity both are equally responsible for non-deduction of VDS. So, functionaries at both ends require knowing VDS rules. It is to be noted here that these rules do not only require to be known and observed during deduction. If VDS related rules and regulations are properly observed from the very commencement of the procurement process, then problems do not crop up later or problems largely reduce. Many of the problems can be avoided if provisions of VDS related rules and regulations are properly inserted in the purchase agreement or tender. But the sad reality is VDS related awareness has not yet properly developed at the field-level. So, the rules and regulations relating to VDS are not properly observed from the start of the procurement process till the payment for the procurement. Generally it is seen that negotiation department finalizes discussion, then purchase department does the purchase, at these stages VDS related matters are not considered. When the bills payable department attempts to pay the bill, then the question of VDS comes to the fore. Since VDS related matters have not been considered during negotiation or during purchase, so at this stage multiple complications arise. Consequently, different types of prblmes arise later straining relationship between the purchaser and the seller including audit objections. Presently, at the field-level,

most of the audit objections arise out of non-compliance of VDS regulations. VAT Deaprtment generally can raise demand for 5 (five) years back. The entities generally can not produce VAT documents of 5 years. Even if they can, the VAT audit officials go for CA firm's audit report of last 5 years. In most of the cases, it is seen that VDS related regulations have not been properly observed. It is also true that sometimes the regulations were gray and complex – challenging for the entities to comply. It is also true that the entities were not aware of the regulations. But at recent times awareness regarding VDS is on the increase; as a whole on VAT matters awareness is increasing. For government VDS is equally important. At the present time, the amount of VAT that is collected from domestic sources from manufacturing, trading and service rendering, almost 40 per cent of the amount is collected as VDS. If VDS related provisions are applied properly, the amount shall further increase.

The offices and organizations upon whom there is VDS deduction responsibility, the officials serving there require taking VDS training twice in a year. Once after budget i.e, in the month of July. Because during budget sometimes VDS related rules and regulations are changed. Another time is in the month of December or January. Because after 5/6 months of budget, some provisions get changed again. In such training, officials of all departments (human resource management, negotiation, agreement signing, procurement, transportation, bills payable, regulatory affairs, audit, post-audit etc.) require to remain present. It is not wise to believe that only the officials of procurement and bills payable departments require to take VDS related training. Actually, if officials of all deptments of an office take training sitting at a session, then it gets easier to comply later because they learn equally and remain on the same page. Otherwise, in any matter if different departments of an office take different positions on any subject then it becomes challenging to get the job done. I give enough emphasis on training. My slogan is one Taka investment in training can help your organization to save ten Taka in future. My another slogan is compliance reduces business cost. We have to gradually come out of the managed culture and have to develop compliant culture. If officials are trained, they can comply better, audit objections reduces and business complexities

diminishes. So, given the importance of VDS in your organization, it is an imperative to take VDS related training.

There are some organizations with whom VAT does not apply to any other way but they have the obligation to deduct VAT at source (VDS). Most of these organizations want to remain compliant but due to lack of knowledge in the area, often they land in difficulties i.e, non-compliance complaints, departmental cases, audit objections etc. are raised against them. These organizations sometime take the services of consultants, both individual and organizational. But sadly, there are instances that for a very small type of function of VDS, the consultants or firms charge very high fees which some entities can not afford. So, these organizations want to know themselves, what are the rules and regulations regarding VDS. In this chapter, I have detailed the VDS matters for easy understanding of any type of readers. Things have been expressed there in easy language and in the sequence of practical economic activities. The rules and regulations of VDS remain scattered in the provisions of the Value Added Tax Act, 1991; the Value Added Tax Rules, 1991 and few orders made thereunder. The most important of those orders is General Order No-06/Mushak/2018, Dated: 07 June, 2018. These legal instruments are written in legislative language. In legislative language, sentences are long and terms are complex. So, these can not be easily understood as a novel can be understood in one reading. The ideas expressed in this chapter have been taken from those provisions of the Act, Rules and Orders. Since this is for easy understanding of the readers, so references have not been mentioned for the sake of simplicity. I hope, these will not contradict with the provisions of law. Yet if any contradictions are found there, provisions of the Act, Rules and Orders shall prevail. However, the readers are requested to bring those into my notice for future corrections. The above General Order is placed below this chapter for quick reference. To start discussion on VDS, first we need to know what is VDS

What is VAT Deduction at Source (VDS)?

At this stage, it is pertinent to discuss what is VAT Deduction at Source (VDS)? There are the provisions of source deduction in the case of Value Added Tax (VAT) and in the case of Income Tax. When it becomes challenging for many reasons (lack of proper accounting,

lack of tax culture, lack of adequate tax administration etc.) to realize the tax in normal course and in the actual place of collection then, provisions are made to deduct that tax at its source, from where the money comes. This system of deducting tax at the source from where the money comes is called tax deduction at source. So, VDS is not a separate tax, rather it is the system or procedure to deduct tax at the source from where the money comes. We can make it clear with an example. We, who are service-holders, on many of us, there lies the responsibility to pay Income Tax (IT) as per the provisions of law. We pay Income Tax. But many of us have the tendency to evade Income Tax. So, Government has made provisions imposing responsibility upon the employer to deduct Income Tax from the salary of the employee when the employer make payment to the employee. Here employer is the source of money. So, the National Board of Revenue (NBR) has asked the employer to deduct Income Tax at source. When the employee will submit his Income Tax return, then he can show all these source deductions and can make necessary adjustments against his real payable Income Tax. Had it been so that all people pay Income Tax as per rules, nobody evades Income Tax then, there would not have any need to make such rules for Income Tax deduction at source. In many other places, Income Tax is deducted at source. For instance, if you have savings instrument and on maturity when you encash it, Income Tax is deducted from the interest. When you are supplying anything to any organization participating in any tender, while making your payment Income Tax is deducted at source. In the same manner, there are provisions for VAT deduction at source. There are many people who sell goods and services where as per the provisions of law, VAT needs to be paid but actually many of them are evading VAT. They are not keeping proper books of accounts, tax culture has not been developed in them and above all our VAT administration does not have enough manpower and other supports to prevent or detect all those evasion efforts or evasions. So, the NBR has asked certain organizations to deduct VAT at source on their certain purchases i.e. goods and services.

So far we understand that the provisions of VAT deduction at source have been made where there is risk of VAT evasion. So, let us try to assess where risk is high, where it is moderate and where it is less.

We know that VAT is collected on goods and services. On goods, VAT is collected at three stages: import stage, manufacturing stage and trading stage. So, VAT system is also called a multiple stage taxation system. On services, whenever service is rendered VAT is paid then. There is only one stage with regard to service. Now, we shall see import stage, manufacturing stage, trading stage and service rendering, in these four points where there are more risks and where there are less risk of VAT evasion. At the import stage, goods physically remain under the custody of government authority (port authority). At this stage, on these goods, many other works are done; Customs Duty (CD), Supplementary Duty (SD), Regulatory Duty (RD), Advance Income Tax (AIT), Advance Trade VAT (ATV) etc. port dues and other charges are collected. Then, VAT is also collected. So, it does not require any extra effort to collect VAT there. At this stage, VAT evasion possibility is less. So, VDS does not relate at import stage. Now, let us discuss the manufacturing stage. At manufacturing stage, the possibility of VAT evasion compared to import stage is greater. Because at this stage, governmental control over the production and sale is less. Control of the VAT officials is also less at this stage. The manufacturer enjoys self-clearance facility under VAT system. So, he can clear his goods at any time he wants. Issuance of fake VAT invoice, non-issuance of VAT invoice are the risks at this stage. So, VDS provisions started from there. For our understanding let me mention one VDS rule at this stage – if manufacturer makes supply issuing VAT invoice then no VDS deduction; if manufacturer makes supply without VAT invoice then 15% VAT deduction. Now, let us discuss the risk at trading stage. At trading stage, there are more risks compared to manufacturing stage because of large number of points of trading. As per Bangladesh Shop-Owners Association, there are about 25 lac trading places throughout the country; those include dealer, distribution center, sales center, commission agent, super shop, mega mall, general store, departmental store, whole-seller, retailer etc. NBR does not have enough manpower to pursue so many places. These also could not be brought under automation network. So, risk of VAT evasion at trading stage is greater than manufacturing stage. So, VDS provisions have also been there. One such rule is, if trader makes supply issuing VAT invoice then no VDS deduction; if trader makes supply without VAT invoice then 5% VAT deduction. Now, let us discuss services. Compared to goods VAT evasion risk is higher on services. One main

reason is service can not be seen and sometimes service delivery system is also not clearly visible. For instance, an individual consultant is providing consultancy service from home. He writes reports and sends to his client by e-mail. This is not visible to the VAT authorities. Here is greater risk of VAT evasion. Again, there are some services where there is lesser risk of VAT evasion because there is a visible establishment etc. For instance, mobile phone service. There is huge establishment, network, service delivery system which are clearly visible. NBR has identified 39 such services where risk of VAT evasion is higher. The withholding entities have been asked to deduct VDS in these cases under all circumstances. We shall discuss these in details later. So, we understand that generally services which are evasion-prone those are brought under the mechanism of source deduction. So, the organizations upon which responsibility of VDS deduction has been given are performing the functions of VAT collection on behalf of the Government. They are helping the government to collect VAT.

All the rules and regulations regarding VAT deduction at source can be divided into three components, viz: (1) who will deduct VAT at source, which are the services requiring VAT deduction at source and the rates of VAT deduction at source and which are the services do not require VAT deduction at source; (2) Following VAT deduction at source how it has to be deposited to the government treasury and how certification of deduction has to be issued in form “Mushak-12Kha”; and (3) how the VAT deducted at source amount can be shown in the relevant serials and columns of the VAT return. We shall find discussions below on these points and on other relevant points.

Organizations upon which the responsibility of VAT Deduction at Source lies (withholding entity)

Ten different organizations have been given the responsibility to deduct VAT at source. Those are as follows:

- (1) Government organizations;
- (2) Semi-Government organizations;
- (3) Autonomous bodies;
- (4) Non-Government organizations (NGOs);
- (5) Banks;

- (6) Insurance companies;
- (7) Financial institutions;
- (8) Limited company (both private limited company and public limited company but not proprietorship firm);
- (9) Educational institutions (all types of educational institutions form KG, nursery to university both public and private); and
- (10) Establishment with more than Taka one crore annual turnover (In VAT law, turnover means total money received from supply of a certain period, here one year period).

When these withholding entities makes payment against their purchases of goods and services, then they require to apply VDS rules to check whether VDS requires to be deducted from the payment. If there remains obligation to deduct VDS, it has to be done. In spite of having the obligation to deduct VDS if it is not done, it can be realized from the entity failing to deduct with 2% interest. Moreover, there are provisions in the VAT Act, 1991 [Section 37Kha(Kha)] stipulating that if deducted money is not deposited to the government treasury following deduction, then the person who deducted VDS, the person who was responsible to deposit the deducted amount to the government treasury and the Chief Executive of the entity each can be imposed personal penalty worth of BDT 25,000 (Taka twenty five thousand) only by the Commissioner. So, the functionaries working at the negotiation, procurement, accounts, bills payable, audit, post-audit etc. departments of the withholding entities require knowing updated provisions regarding VDS.

Now, we shall place the VDS matters in the sequence of practical activities. If we think sequentially, then it shall be easier for us to have a grasp on the provisions. All matters of VDS can be divided into four components. The first component deals with who are the withholding entities and on which supplies VDS requires to be deducted. The second component deals with on which supplies VDS does not require to be deducted. The third component is, how the deducted amount can be deposited to the government treasury following deduction at source and how VDS withholding certificate has to be issued. For most of the entities, it is sufficient to know upto this. But the entities who have other VAT works and other provisions of VAT need to be complied with, specially the entities who require

to submit VAT return (Mushak-19) those entities require knowing one more component, i.e, component four. This component deals with how the VDS deduction related matters can be posted in the VAT return. For instance, Grameen Phone Ltd. pays output VAT to the government treasury in its normal course of service rendering. Grameen Phone Limited submits VAT returns regularly. Again, Grameen Phone Limited deducts VDS as a withholding entity. So, it requires knowing how the VDS info needs to be inserted in the VAT return of Grameen Phone Limited. Again, suppose, Aftab Automobile Workshop Limited repairs the motor vehicles of Grameen Phone Limited. Aftab Automobile Workshop Limited pays VAT to the government as motor garage and workshop – a VATable service. So, it submits VAT return. While Aftab Automobile Workshop Limited provides services to Grameen Phone Limited, VDS is deducted by Grameen Phone Limited while making payment and VDS certification (Mushak-12Kha) is issued by Grameen Phone to Aftab Automobile. So, concerned employees of Aftab Automobile Workshop Limited requires knowing how the information regarding VDS withheld by Grameen Phone requires to be posted in the return of Aftab Automobile. We shall discuss now the above components sequentially.

Meanwhile, we have learnt the first tips regarding VDS. That is on which entities VDS liabilities lies. The second VDS tips is, at present, on 39 services, VDS deduction is compulsory. Those services remain listed in paragraph 02 of the General Order no-06/Mushak/2018. dated 07 June 2018 of the National Board of Revenue (NBR) regarding VDS procedure. There are 39 services in the list. If any of the withholding entity described above purchases any of the services falling under those 39 services, then regardless of the issuance or non-issuance of VAT invoice (Mushak-11) by the service provider, regardless of the VAT payable on the service has been deposited to the government treasury or not; VDS has to be deducted while making payment against the bill (there is some exception with regard to advertisement service that shall be discussed later). Mentionably, it is usual that the service provider shall issue VAT invoice. But practically, many service renderers do not issue VAT invoice while rendering these services. So, compulsory VDS deduction provisions have been formulated for these services.

Therefore, VDS has to be deducted compulsorily regardless of VAT invoice has been issued or not. At this stage, a question frequently arises, whether VDS has to be deducted if the service renderer issues VAT invoice and deposits amount of VAT against the invoice to the government treasury. Answer is yes, in the case of receiving any of those 39 services, while making payment VDS has to be compulsorily deducted. Following deduction, withholding entity shall issue withholding certificate (Mushak-12Kha) favouring the service provider. The service provider shall post the deducted amount in the serial 12 of his VAT return, thus the amount shall be positively adjusted. So, ultimately government shall get VAT once. The summary is, if any of the above 39 services are purchased by any of the 10 withholding entities, then compulsorily VDS has to be deducted while making payment. There is no exception other than advertising service. Under all circumstances, VDS requires to be deducted there. People tend to ask multiple questions on this point. So, I hereby emphatically assert that as per the current rules and regulations of VDS under all circumstances VDS deduction is compulsory with regard to these 39 services excepting advertisement service which shall be discussed later. So, it is meaningless to conceive any situation and ask whether VAT requires to be deducted there with regard to these 39 services. But a question remains vivid in the mind of the readers that VAT has to be deducted by the withholding entity (service recipient) in spite of issuance of VAT invoice by the service provider, what is the rationale behind this. The reason of formulating such provision is at the field-level there is tendency of issuance of fake invoice. Government's mechanism can not effectively and exhaustively monitor these sectors. So, the tendency of issuance of fake invoice can not be eliminated. In other words, there is the risk of VAT evasion. We know VDS provisions have been made to minimize risk of VAT evasion. Therefore, with regard to these 39 services provisions have been made to deduct VAT in spite of issuance of VAT invoice. Service recipient withholding entities have been asked to deduct VDS compulsorily and the service provider has been asked to collect withholding certificate from the service recipient and make positive adjustment in his Account Current Register (Mushak-18) and VAT return (Mushak-19). Consequently, activities of the service renderer have been increased.

For ease of the readers, I would like to answer to the above question in a detailed manner at this stage. These 39 service renderers have options to pay VAT in normal course while providing service or not to pay VAT while providing service since it is known that VAT shall be deducted at source on these services. If they pay VAT in normal course while providing service and if the service recipient (withholding entity) deducts VAT at source then on a single service VAT becomes paid twice. Therefore, for the service provider provision has been made to make positive adjustment once in his Account Current Register and return. Then VAT becomes paid to the government once. This job of making positive adjustment once is not clear to many. So, they raise question. They also think in plain commonsensical manner that there is invoice so no deduction is needed. Hopefully, now we understand that under which circumstance positive adjustment is needed. Now let me clarify how to make positive adjustment. Suppose, service provider has provided a service. Service provider has issued VAT invoice (Mushak-11). In normal course, service provider has paid VAT to the government treasury. The service recipient has deducted VDS because the service falls under the above 39 services where NBR has instructed the withholding entities to deduct VDS compulsorily. The service recipient has issued VDS certification (Mushak-12Kha). The service provider has obtained Mushak-12Kha. The service provider shall now post the amount in the Mushak-12Kha in the column (8) of the Account Current Register (Mushak-18) and add the amount to the column (10) closing balance. The service provider shall post the amount to serial 12 of his next VAT return. Thus, making positive adjustment is completed. If the service renderer does not maintain Account Current Register then posting in the serial 12 of the next VAT return shall be sufficient to make positive adjustment. Thus, if positive adjustment is made, then VAT is paid to the government once only. This procedure remains detailed in paragraph 5(Ka) of General Order No.-06/Mushak/2018, dated 07 June, 2018 of NBR. So far we have discussed two VDS tips, viz: (a) who are the VDS withholding entities; and (b) VDS deduction is compulsory on 39 services under all circumstances, however, on advertisement there is some exception.

At this stage, for convenience of the readers, I want to discuss one thing, i.e, the easy and brief way to understand VAT deduction at source procedure. If your organization falls under any one of the 10 withholding entities, then while making payment against purchase of any goods or service, you have to apply VDS rules to understand whether there is any need for deduction of VDS. Whenever, any bill is placed before you, then you have to ascertain whether the bill is against purchase of any goods or any service. If the bill is against purchase of any service, then you have to ascertain the title of the service. If the service falls under any service mentioned in the list below, then VAT at the rate mentioned in the rightmost column of the list against the service has to be deducted compulsorily. In the cases of those services, VAT has to be deducted at source under all circumstances. VAT has to be deducted at source regardless of issuance or non-issuance of VAT invoice by the provider of the service. Regardless of having or not having treasury challan, VAT has to be deducted at source. Regardless of inclusion or non-inclusion in the agreement of service delivery, VAT has to be deducted at source. VAT has to be deducted at source, regardless of VAT-inclusive or VAT-exclusive price. Summarily, in the cases of the 39 services mentioned in the list below, VAT has to be deducted at source under all circumstances. There is no such circumstance where VAT does not require to be deducted at source, except a circumstance related to the service of advertisement. The procedure following deduction has been discussed later. I suppose, things have become easy now. If you work under payment section of any VAT withholding entity, then when a bill against any purchase of your organization is placed before you, then you have to see whether the bill is against the purchase of any service and the service falls under the 39 services mentioned in the list. If the service remains included in the list below, then deduct VDS at the rate mentioned in the rightmost column of the list. Most of the services generally purchased by your organization shall fall under the 39 services of the list. So, with this meagre knowledge on VDS, in most of the cases, you may perform your VDS responsibilities properly.

In most of the cases, it can be easily understood whether any service falls under the 39 services mentioned in the list. There are only few services which could not be understood easily. One important thing needs to be mentioned here that in serial 19 of the following list, the

service 'Procurement Provider' practically relates to the supply of goods but in our VAT system, it is considered as service. So, if we keep Procurement Provider out of the list for the time being there remains 38 services left. In serial 5, there is advertisement service. We have mentioned earlier that with regard to advertisement, the provisions for VDS is a bit different. We shall hopefully discuss that later. If we keep advertisement service out of the list for the time being, there remains 37 services left. So, whenever any bill is placed before you, please check if the purchase concerning the bill is a service and the service falls within the 37 services mentioned above. If the service falls within the 37 services, VAT needs to be deducted at source at the rate mentioned against the service. Sometimes, it becomes challenging to ascertain the title of the service. In that circumstance, you need to check the definition of the service. The definitions of the services remain enshrined in the S.R.O No. 168-Law/2013/672-VAT, dated: 06 June, 2013. The activities composing the service which your organization has purchased need to be fitted with the definition of services and where it fits most it shall be dubbed that service. There are some service definitions which are almost similar, such as: consultancy firm and supervisory firm; engineering firm etc. In such circumstance, you have to check under which service definition your purchased activity falls most, it shall assume that service title.

The above mentioned 39 services and the rates of VAT to be deducted against the services remain listed in the following table. In the serial 19 of the table, there is Procurement Provider. It has been mentioned earlier that Procurement Provider is the supply of goods following procurement. It is a service. Procurement Provider procures goods from one place, brings all the way and provides to the withholding entity. This service is called Procurement Provider. Although it looks like goods but in our VAT system it is considered as service. If we keep Procurement Provider out of the list, there remains 38 services. If we keep advertisement service out of the list, there remains 37 services. With regard to these 37 services deduction of VAT at the rate mentioned against the service is compulsory under all circumstances.

List of services where VAT deduction at source is mandatory

Serial No.	Service Code	Title of Service	Rate of VAT deduction at source	
01.	S002.00	Decorators and caterers	15%	
02.	S003.10	Motor garage and workshop	10%	
03.	S003.20	Dockyard	10%	
04.	S004.00	Construction Firm	7%	
05.	S007.00	Advertizing Agency	15%	
06.	S008.10	Printing press	15%	
07.	S009.00	Auctioneer	15%	
08.	S010.10	Land developer	3%	
09.	S010.20	Flat seller	a) From 1 to 1600 square feet	2%
			b) From 1601 square feet or above	4.5%
			c) On reregistration	2%
10.	S014.00	Indenting agency	15%	
11.	S020.00	Survey agency	15%	
12.	S021.00	Organization renting out plant and capital machinery	15%	
13.	S024.00	Seller of furniture	(a) at production stage	7%
			(b) at showroom (if VAT Challan in support of 7% VAT payment at production stage is available, if not available then 7+5=12%)	5%
14.	S028.00	Courier and express mail service	15%	
15.	S031.00	Individual, organization or establishment performing repair and servicing of taxable goods in exchange of consideration.	15%	

Serial No.	Service Code	Title of Service		Rate of VAT deduction at source
16.	S032.00	Consultancy firm and supervisory firm		15%
17.	S033.00	Awarder of lease (Izaradar)		15%
18.	S034.00	Audit and accounting firm		15%
19.	S037.00	Procurement provider		5%
20.	S040.00	Security service		15%
21.	S045.00	Lawyer		15%
22.	S048.00	Transport contractor	(a) for transport of petroleum products	5%
			(b) for transport of other products	10%
23.	S049.00	Rent-a-car		15%
24.	S050.10	Architect, interior designer or interior decorator		15%
25.	S050.20	Graphic designer		15%
26.	S051.00	Engineering firm		15%
27.	S052.00	Rentor of sound and lighting instruments		15%
28.	S053.00	Board meeting attendee		15%
29.	S054.00	Advertiser through satellite channel		15%
30.	S058.00	Organization renting out chartered aircraft or helicopter		15%
31.	S060.00	Purchaser of auctioned goods		5%
32.	S065.00	Organization performing the works of cleansing and maintenance of building and floor		15%
33.	S066.00	Seller of lottery ticket		15%
34.	S071.00	Event organizer		15%
35.	S072.00	Organization supplying and managing human resources		15%
36.	S099.10	Information Technology		5%

Serial No.	Service Code	Title of Service	Rate of VAT deduction at source
		Enabled Services (ITES)	
37.	S099.20	Other Miscellaneous Services	15%
38.	S099.30	Sponsorship Services	15%
39.	S099.60	Credit Rating Agency	7%

At this stage, a question frequently arises specially from the withholding entities. The question is, if the provider of service provides any of those 37 services on payment of VAT himself as per general provisions, then should VAT be deducted at source from the bill of the same service while making payment? The answer to this question is yes, in such case too VAT has to be deducted at source. In fact, the straight answer is under all circumstances, on those 37 services VAT has to be deducted at source. Then, the next question comes. If the service provider has paid the VAT himself and if on the same service again VAT is deducted at source then VAT is paid twice on the same service. Is not it? The answer is yes, in such case VAT is practically paid twice but the service provider shall take positive adjustment of the VAT once in his Account Current Register (Mushak-18) and next VAT return (Mushak-19). Then VAT shall be ultimately paid once on his service. The procedure is that the authority deducting VAT at source, on deduction and deposit of VAT to the government treasury will issue an withholding certificate in "Mushak-12Kha" form. On receipt of such certificate, the service renderer shall post it in the column 8 of his Account Current Register and serial 12 of his VAT return in the tax period of issuance of the certificate or immediate next tax period. Thus, he can take positive adjustment of VAT paid once. So, VAT is ultimately paid by him once not twice. This procedure has been described in details in the paragraph 5(Ka) of the General Order No. 06-Mushak/2018, Dated: 07 June, 2018 issued by NBR regarding VAT deduction at source. These provisions will be discussed in details later in the part (3) of this write-up. Such provisions have been incorporated to give liberty to the service renderers i.e. to facilitate them. The service renderers have been given both the options. They can render service on payment of VAT in normal course or without payment of VAT whichever suits him. Whatever the case, they need to make

necessary adjustments through return or they need to reflect the deduction in the VAT return.

VAT deduction at source on advertizing agency:

The procedures regarding VAT deduction at source in respect of advertizing agency is a bit different. So, it is discussed here separately. Any advertizing agency as any other service renderer on rendering services while submitting bill to the service recipient shall issue VAT Challan in its normal course, it is desired. The VAT Challan has to be certified by the Assistant Revenue Officer (ARO) or Revenue Officer (RO) of the local Value Added Tax Office i.e. Circle Office under whose jurisdiction the advertizing agency falls. If such properly certified VAT Challan is submitted with the bill, the service recipient will not deduct VAT at source from the bill. Total bill including VAT has to be paid to the service renderer advertizing agency. The advertizing agency shall deposit VAT to the government treasury in its normal course. It is worth mentioning here that only in the case of the service of advertising agency, VAT Challan requires to be certified. In no other servcie in our VAT system, VAT Challan requires to be certified by VAT official. In fact, unlike excise system, VAT system is self-clearance system. The VAT registered person issues VAT Challan thyself and makes the supply. Advertizing agency is a special type of service. In between service provider and service recipient there stands media agency who are also called advertizing agency. To prevent the problem of accrual of continuous positive VAT balance to the VAT return of media agency (considered as advertizing agency), such mechanism of VAT Challan certification by VAT officials has been introduced.

There lies ambiguity among many regarding what does advertising agency mean in the VAT system of Bangladesh. By the term advertising agency means making any advertisement, publicizing the advertisement in any media or assisting in the work of publicity. The definition also includes publicizing advertisement in website or online version of newspaper, periodical, magazine etc. By that count, in the VAT system of Bangladesh any organization making advertisement and publicizer i.e. radio, television, newspaper, website, billboard etc. and facilitator i.e. media agency fall under the definition of advertising agency. These organizations require

submitting properly attested VAT Challan by the Revenue Officer or Assistant Revenue Officer of the VAT Circle Office with bill if they make and supply or publicize advertisement. If properly attested VAT Challan does not accompany the bill, applicable VAT i.e. 15 per cent has to be deducted at source. For better understanding the definition of advertizing agency is given below which remains incorporated in S.R.O No.-168-Law/2013/672-VAT, dated: 06 June, 2013:

Advertizing Agency:

Explanation.-(a) "Advertizing Agency" means any individual, institution or organization, with the objective of publicity of any goods or service or any other publicity, engaged on commercial basis, in the preparation of advertizement of any name or type or publicize any advertizement prepared with the same objective in any media or in any other way or in the assistance of the work of publicity; and

(b) Publicity of any advertizement in the online version of any website of any individual, institution or organization or any newspaper, periodical, magazine etc. too shall be included in the advertizing agency.

(বিজ্ঞাপনী সংস্থা:

ব্যাখ্যা।- (ক) “বিজ্ঞাপনী সংস্থা” অর্থ কোন পণ্যের বা সেবার প্রচারণার বা অন্য কোন প্রচারণার উদ্দেশ্যে, বাণিজ্যিক ভিত্তিতে যে কোন নামের বা ধরনের বিজ্ঞাপন প্রস্তুতকরণে বা উক্ত উদ্দেশ্যে প্রস্তুতকৃত কোন বিজ্ঞাপন যে কোন মাধ্যমে বা অন্য কোন পন্থায় প্রচারকরণে বা প্রচার কার্যে সহায়তাকরণে নিয়োজিত কোন ব্যক্তি, প্রতিষ্ঠান বা সংস্থা; এবং

(খ) কোন ব্যক্তি, প্রতিষ্ঠান বা সংস্থার ওয়েবসাইট বা কোন পত্রিকা, সাময়িকী, ম্যাগাজিন, ইত্যাদি এর অনলাইন সংস্করণে বিজ্ঞাপন প্রচার করা হইলে উহাও বিজ্ঞাপনী সংস্থার অন্তর্ভুক্ত হইবে।)

So far we have discussed on which organizations responsibilities for VAT deduction at source have been given. Moreover, we have mentioned 37 services on which VAT deduction at source is compulsory. Special procedures for VAT deduction at source on Advertizing Agency has also been discussed. So far discussions have been done regarding VAT deduction at source on 38 services. We shall discuss Procurement Provider later while we discuss VDS provisions on goods, since it it basicallay the supply of goods but in

the VAT system of Bangladesh it is considered as service. If we consider that we have discussed Procurement Provider, then we have completed 39 services included in the list above.

VAT Deduction at Source beyond 39 Services

Now the question is if any of the services beyond those 39 services are purchased then what will be the procedures of VAT deduction at source. Provisions regarding this have been inserted in the paragraph 02(3) of the General Order No 06/Mushak/2018, Dated: 07 June, 2018 issued by NBR. Provisions go that if services beyond those 39 services are purchased, then it is to be checked that whether applicable VAT on those services have been paid in due course by the service provider. If the service provider has paid the applicable VAT on the service in due course, then the service recipient shall not deduct VAT at source. If service provider has not paid VAT in due course, then VAT shall have to be deducted at source. Now the question arises that how the recipient of service shall be certain that VAT has been paid on the service. Firstly, he shall see the VAT Challan (Mushak-11). The service provider shall have to submit VAT Challan along with his bill. The service recipient shall have to see the salient features of the VAT Challan to check its apparent authenticity. The VAT Challan has to be issued in the prescribed format. Most of the VAT Challans are issued in form “Mushak-11”. A format of the form “Mushak-11” can be seen in the website: www.vatbd.com. If the VAT Challan is issued manually, it has to be issued using dual-sided carbon paper. There can be no overwriting, no use of fluid or strike through in the Challan. It has to be checked whether the information of serial numbers of the Challan, name of the business organization, address, Business Identification Number (BIN), name of the purchaser, address, Business Identification Number and other information are there. Price of the service and applicable VAT and total price needs to be mentioned in the Challan. But VAT-inclusive price can be mentioned in the Challan as well. The Challan has to be signed with date by the authorized person. If any supplier issues VAT Challan prepared in computer, the order of the Commissioner by which such permission has been given to issue VAT Challan by computer may be taken from the supplier. It can be worth mentioning here that to prepare VAT Challan by computer, permission of the Commissiner is needed as per the

present procedures of VAT system of Bangladesh. To that effect a software has to be established first. Then, the software has to be checked by a team appointed by the VAT Commissioner. On satisfaction, the VAT Commissioner issues permission to use software to issue VAT Challan. It can be mentioned here that the NBR is now in the process of approving softwares at one go which can be purchased and used by multiple clients. Additionally, Treasury Challan can also be taken to be sure that VAT against the service has been deposited to the government treasury. If the provider of service informs that he has paid VAT not by Treasury Challan but by debiting from Current Account Register, then the attested copy of concerned page of the Current Account Register (Mushak-18) can be taken as an evidence of payment of VAT. It can be examined whether the VAT Challan issued remains included in the Current Account Register.

In brief, while purchasing any service beyond those 39 services, the recipient of the service would have to be sure that applicable VAT on the service has been deposited to the government treasury. If it can be sure that the service provider has paid the VAT himself in proper manner, VAT shall not have to be deducted from the bill at source while making payment. If the service recipient can not become certain that VAT on the service has been deposited to the government treasury in due course, then VAT has to be deducted at source. As per clause (Ta) of sub-section (2) of section 37 of the VAT Act, 1991, the service recipient has such obligation. Then the question arises at what rate VAT has to be deducted at source beyond 39 services. One needs to know the applicable rate on that service. In our country standard VAT rate is 15%. But on few services there are truncated rates. At present, there are 6 truncated VAT rates on 17 services. Those are 2%, 3%, 4.5%, 5%, 7% and 10%. A list of those 17 services with truncated VAT rates is given below. If the purchased service falls under these 17 services, then VAT has to be deducted at the rate mentioned against the service. If the service falls beyond these 17 services, then VAT has to be deducted at the rate of 15%.

List of services with truncated VAT rates

Sl. No.	Name of the service	Truncated VAT rate
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Sl. No.	Name of the service	Truncated VAT rate
01.	Non-AC restaurant	7%
02.	Motor garage and workshop *	10%
03.	Dockyard *	10%
04.	Construction firm *	7%
05.	Land developer *	3%
06.	Flat seller *	(a) From 1 to 1600 square feet 2% (b) From 1601 square feet and above 4.5% (c) On reregistration 2%
07.	Furniture *	(a) At factory 7% (b) At show room 5% (If VAT Challan in support of payment of 7 percent VAT at factory stage is there, otherwise 7+5=12 percent has to be deducted at show room stage)
08.	Goldsmith	5%
09.	Procurement provider *	5%
10.	Transport contractor *	(a) for transport of petroleum products 5% (b) for transport of other products 10%
11.	Distributor of electricity	5%
12.	Purchaser of auctioned goods *	5%
13.	English medium school	5%
14.	Seller of branded and non-branded ready-made garments	5%
15.	Virtual business	5%
16.	Information technology enabled services (ITES) *	5%
17.	Credit rating agency*	7%

It can be mentioned here that of the above 17 services, the services with asterisk mark are already in the list of 37 services where VDS deduction is compulsory.

We have been discussing the procedures of VAT deduction at source. We are explaining the cases where VAT deduction at source is needed. We have discussed the VDS provisions on services first since on services there are more risks of VAT evasion. We have discussed VDS provisions on 37 services, then we have discussed special

provisions on Advertising Agency, then we have skipped Procurement Provider for later discussion, then we have discussed VDS provisions on services beyond those 39 services. In the following paragraphs, we shall discuss VDS provisions on goods.

VDS Provisions on the Supply of Goods

We have discussed earlier that if the bill for the purchase of service is placed before you, then you have to follow the provisions mentioned above. But if the bill for the purchase of goods is placed before you, then you have to follow the provisions mentioned below. If bill for the purchase of goods is placed before you, then your first job is to ascertain who has given the supply. Three entities can make the supply; viz: (a) a manufacturer supplier; or (b) a trader supplier; or (c) a procurement provider. For the supply of these three entities, there are separate VDS provisions which have been discussed later. We know that although procurement provider is a service, practically procurement provider provides goods. Procurement provider procures goods from one place, he brings the goods all the way and provides to an withholding entity. So, he provides the service of procuring and bringing the goods. So, procurement provider service comes before you in the form of goods. Therefore, we are discussing procurement provider in goods section of this write-up. The following discussion is relevant to understand when the supply of goods shall be considered as procurement provider. The procurement provider service which remains included in the list of 39 services mentioned above is a very important service in our VAT management system. There remains obscurity in the minds of people regarding VDS provisions on this service. So, the provisions regarding VDS deduction on procurement provider is discussed in details below. Mentionably, the definition of procurement provider has been to some extent changed during the budgetary measures of 2013-14 and consequently, VDS provisions have also been changed. Please find detailed discussion regarding this below.

VAT deduction at source on Procurement Provider

Of the 37 services included in the above list, Procurement Provider is an important service. Many of the concerned persons do not understand clearly the procedure of VAT deduction at source on Procurement Provider service because of obscurity and complexity of its definition. At the field level, sometimes there arise difficulties

to deduct VAT at source on Procurement Provider service. Because some people think that there is non-clarity in the explanation regarding the scope and boundary of this service. The definition of Procurement Provider goes "Procurement Provider means, such individual, organization or establishment who supplies in exchange of consideration, taxable goods or service or both through quotation, tender or by any other means to the various government, semi-government, autonomous bodies, non-government organizations (NGOs), bank, insurance or any other financial institutions, limited company or educational institutions." Its meaning is that if the supply is made through tender or through quotation or through any other way and if the goods or service are taxable, then the service of supply will be considered as Procurement Provider. Purchase in any other way means cash purchase or any purchase without tender or quotation. So, on all these types of purchases, an withholding entity requires to deduct VAT at source subject to other provisions regarding VDS. Purchase of any amount will fall under the definition of Procurement Provider. There is no lower limit in the VDS procedures. No specific amount of purchase has been exempted from being Procurement Provider under VDS procedures. In the procedures regarding Income Tax deduction at source, in certain cases, there are certain limits where Income Tax deduction at source is not required. So, people sometimes confuse this with VDS. It can be mentioned here that from 1 July, 2017 a provision was added to the VDS regulations that a purchase worth of Taka 1,000 (Taka one thousand only) shall not be subject to VDS. This provision remained effective for one year only. On 7 June, 2018 such provision has been cancelled. Supplier of taxable goods or services has been included in the definition of Procurement Provider. Taxability will be decided only by the Schedules of the VAT Act, i.e. goods and services listed in the First and Second Schedules of the VAT Act are non-taxable goods and services. If those non-taxable goods and services are supplied, the supplier will not be considered as Procurement Provider and therefore no VDS deduction will require. If goods and services exempted by SRO are supplied, the supplier will be considered as Procurement Provider. Because goods exempted by SRO is taxable goods. Those are exempted at one stage but VATable at other stage. Suppose, one item is VAT-exempted at production stage but it is VATable at import stage and trading stage. So, it is taxable goods. But

goods listed in the First Schedule of the VAT Act, 1991 are VAT exempted at all these stages, so these goods are called non-taxable goods. Supplier of all other taxable goods and services shall be considered as Procurement Provider. In case of petty purchase in cash, VAT as Procurement Provider shall have to be deposited to the government treasury from own fund. Because these petty purchases are generally made from small shops. They do not issue VAT Challan. Prices are already paid to the shops. So, deduction can not be made from the bill. Therefore, VAT shall have to be paid from own fund of the purchaser.

Sometimes, it becomes difficult to the service recipients to identify a Procurement Provider. It is to be kept in mind that as per the provisions of VAT Act, purchase through tender can not be done from any entity other than an entity registered under VAT. It is also obligatory to submit a copy of VAT registration certificate with tender document. If the entity submitting tender is a Procurement Provider then on his VAT registration certificate (11 digit BIN) against "nature of your business" there will be mentioned "Service Renderer" and against "activity code" there will be mentioned "S037.00 Procurement Provider". If the supplier is a producer then against "nature of your business" there will be mentioned "Supplier (Manufacturer)". If the supplier is a trader then against "nature of your business" there will be mentioned "Supplier (Trader)". It is to be kept in mind that a Procurement Provider does not produce goods. He either purchases the goods from producer or from trader or imports the goods from abroad and supplies those against tender. When deducting VAT at source on the service of a Procurement Provider, one needs to be certain that the supplier is a Procurement Provider.

One thing is very important at this stage that needs to be kept in mind. If the supplier is a producer or trader and if he has issued VAT Challan with the supply of goods, then he will not be considered as Procurement Provider. So, in such case, VAT does not require to be deducted as source. Because he is not a Procurement Provider rather he is a producer. For this reason, it is of utmost importance to know about the status of the supplier. It can be made clear with an example. Suppose, Sonali Bank Limited has floated tender to purchase 10,000 (ten thousand) pieces soaps. There are several

participants in the tender, of them Kohinoor Chemical Company is one. Kohinoor Chemical Company is a producer. S R Enterprise has also participated in the tender. This is a Procurement Provider firm. If Kohinoor Chemical Company obtains work order, then as a producer it will make the supply issuing VAT Challan. In this case, while making payment against the supply, VAT will not require to be deducted at source. But if the tender is obtained by S R Enterprise, then it will purchase the goods from any producer or trader and make the supply. So, he is a Procurement Provider. At the time of making payment by Sonali Bank Limited to the S R Enterprise, VAT as Procurement Provider will have to be deducted at source. If Procurement Provider supplies the goods after import, then the procedure is a bit different. In case of supplying the goods to any government, semi-government and autonomous body, bank, insurance company or NGO after import, at the import stage, tender documents will have to be submitted while making assessment as per paragraph 7(d) of SRO No 174-Law/2018/797-VAT, Dated: 07 June, 2018. If tender documents are submitted, Advance Trade VAT (ATV) will not be applied at the import stage. At the supply stage, the recipient of the supply will deduct 5 percent VAT as the service of Procurement Provider.

It needs to be mentioned here that as per S.R.O No.-167-Law/2018/790-VAT, dated: 07 June 2018, the following supplies shall not be considered as procurement provider:

- (a) tiffin supply to school;
- (b) supply of text book to primary, secondary and equal grade printed against work order issued by National Curriculae and Textbook Board.
- (c) supply of cotton;
- (d) supply of waste and scrap paper;
- (e) supply of cullet (pieces of broken glass);
- (f) supply of plastic waste;
- (g) supply of cattle bone used as raw-material of giletine capsule;
- (h) supply of locally collected scrap to steel mill;
- (i) supply of jute goods.

Difference Between Trader and Procurement Provider:

If you want to identify procurement provider, you need to basically differentiate procurement provider from trader. A trader has an establishment, may be own or rented where he has structure (small or big), manpower, utilities and stock of goods. A procurement provider generally does not have any such establishment. A trader stocks the goods then, sells from the stock; a procurement provider does not stock. Procurement provider procures, brings all the way, then supplies directly to the client. A trader sells to all type of customers but procurement provider supplies only aginsat tender. A trader takes part in a tender involving the goods he deals with but a procurement provider may take part in the tender of any goods.

In brief, if goods are supplied by any producer or trader issuing VAT Challan, then the supplier will not be considered as Procurement Provider and there will be no need to deduct VAT at source. Before deducting VAT at source, one needs to be certain about the status of the supplier. If the supplier is a Procurement Provider, then VAT at the rate of 5 percent requires to be deducted at source.

VAT Deduction at Source on the Supply of Goods by Manufacturer or Trader

We have meanwhile discussed that upon which entities VAT decution at source responsibilities have been given. Moreover, we have discussed 37 services from where VDS deduction is obligatory. We have discussed special VDS provisions on advertizing agency. We have discussed VDS provisions regarding procurement provider. Then, we have discussed VDS provisions beyond those 39 services. Then we have started discussion regarding VDS provisions on the supply of goods. We have seen that goods are supplied by manufacturer, trader and procurement provider. We have also seen that in the case of supply of goods who shall be considered as procurement provider and who shall not. If considered as procurement provider, then VAT at the rate of 5% shall require to be deducted at source from the supply. If the supplier is not considered as procurement provider, then generally no VAT requires to be deducted at source. In the continuation of discussion, we have mentioned that if any supplier of goods himself is the manufacturer and if he makes the supply issuing VAT Challan, then he will not be considered as procurement provider and therefore, VAT shall not require to be deducted at source from such supply. We have further

discussed that, in the same manner, if any trader makes supply with VAT Challan, he too shall not be considered as procurement provider and therefore, in that case too VAT shall not require to be deducted at source. In other words, if supply of any goods is received by any withholding entity, then while making payment, at first it has to be determined whether the supply has been made by any manufacturer or any trader or any procurement provider. Scrutinizing VAT registration certificate (Business Identification Number-BIN), Taxpayers Identification Number (TIN), trade license, Memorandum or any other document and if needed the business place of the supplier has to be visited to determine whether the supplier is a manufacturer or a trader or a procurement provider. This job is not so challenging. Such scrutiny does not require while making payment of each and every bill. In any withholding entity, there are some enlisted vendors. The vendors are appointed beforehand. When the vendors are appointed, then it can be understood that whether the vendor is manufacturer or trader or procurement provider. Suppose, Sonargaon Hotel shall appoint vendor to take regular supply of edible oil. Tender has been floated for this purpose. Many organizations have taken part in the tender. Amongst them, there is Bangladesh Edible Oil Industries Ltd. There is Prince Bazar Pvt. (Ltd.). Moreover, there is Rahmania Enterprise. At this stage, scrutinizing documents, it can be ascertained that Bangladesh Edible Oil Industries Ltd. is a manufacturing organization; Prince Bazar (Pvt.) Ltd. is a trader and Mrs. Rahmania Enterprise is a procurement provider. If Bangladesh Edible Oil Industries Ltd. is selected in the tender, then whenever submits bill on supply of edible oil, it could be assumed that the bill has been submitted by manufacturer. It shall not require to scrutinize in respect of each and every bill. The same applies to the other two entities: trader and procurement provider.

Now, we shall see that in the cases of supply made by these three types of organizations what are the VDS related provisions. If the supplier of goods is ascertained as procurement provider, then VDS at the rate of 5% has to be deducted compulsorily at source from the supply. Because the procurement provider service remains included in the 37 services described and discussed earlier where VDS deduction at source is compulsory. If the supplier is a manufacturer and if it supplies goods directly from manufacturing place issuing VAT Challan, then VDS does not require to be deducted at source. Bill

along with VAT has to be paid. For instance, if Bangladesh Edible Oil Industries Ltd. supplies edible oil to Sonargaon Hotel directly from manufacturing place with VAT Challan, then VDS shall not require to be deducted at source. If manufacturer of any VATable goods supplies goods without VAT Challan, then VAT at the rate of 15% has to be deducted at source, not 5%. If the supplier of goods is a trader and supplies goods with VAT Challan, then VDS shall not require to be deducted at source. For instance, if Prince Bazar supplies 500 pieces of tissue paper box to Sonargaon Hotel with VAT Challan, then VDS shall not require to be deducted at source. It may be mentioned here that ECR receipt is considered as VAT Challan provided there are some prescribed information. If Prince Bazar supplies those items without VAT Challan, then 5% VAT shall require to be deducted at source, not 15%.

So far we have discussed that any withholding entity while making payment for the purchase of anything, first shall think that whether the purchase is a goods or a service. What steps have to be taken subsequently in the case of purchase of service, those have been discussed before. If the bill is for the purchase of goods, then it has to be checked whether the supplier of goods is a manufacturer or a trader or a procurement provider. In all those cases, what are to be done have been discussed above. Few more pertinent aspects related to VDS are discussed below. Few tips related to VDS have been mentioned at the end of this chapter which shall be enough helpful to understand VDS procedure.

There are few more areas of VDS deduction, those are discussed below

VAT deduction at source as per Rule-18Uma

As per Rule-18Uma of the Value Added Tax Rules, 1991 when any license is issued or renewed by any government, semi-government and autonomous bodies and local authorities, VAT at the rate of 15% has to be deducted from the recipient of the facilities on the total receipt. VAT shall have to be deducted at source on the total consideration of revenue sharing, royalty, commission, charge, fees or receiveables in any other manner under the conditions cited in the permit, license, registration given. VAT needs to be deducted at source on the connection fee while giving connection of water,

electricity, gas, telephone and any other connectivity. This is a new phenomenon in our VAT system. In June, 2010 this provision has been inserted in the VAT Rules. All concerned persons have not yet been fully aware about the need of such VAT deduction. However, gradually awareness is developing and revenue income from this area is increasing. Land registration fee has been exempted from VAT during budgetary measures of 2018-19 by inserting clause *Jha* in the paragraph 7 of the Second Schedule of the VAT Act, 1991.

VAT deduction at source in case of service import

When any service is provided from outside the geographical boundary of Bangladesh and the service is received in Bangladesh, in that case, bank or other financial institutions who will remain involved in the process of bill payment will deduct VAT at source at applicable rate. Service import is a special type of activity. The process of service import is different from that of the process of import of goods. In the case of service import, any person comes from abroad to render services. Before that, an agreement is signed between the service importer i.e, receiver of service and the service renderer. The concerned service renderers come here in Bangladesh, render the service and go back. The VAT authorities do not have enough knowledge and control over all these activities. As per agreement, the payment against the service shall have to be made through banking channel. So, banks or other financial institutions have been assigned the responsibility to deduct VAT at source while making payment in such cases of service import. Such services are mainly consultancy services and technical services. The concerned bank shall remit the payment against import of services to the bank account of the service renderer, deduct VAT from the payment and deposit the VAT to the government treasury. Service import is as well a new phenomenon in our VAT system. So far there was no mechanism of taking input tax credit on the import of services. Because in such cases, generally VAT Challan would not have been issued by the service renderers and generally they would not have been registered under VAT in our country. So, taking input tax credit on the import of services was not possible. Necessary changes have been made in Section-9(1)(j) to enable the service importers to take input tax credit. Input tax credit on the import of the service can be taken if the service imported remain included in the price of the service provided by the importer or remain declared in the goods supplied by him and if proper evidence in support of deposit of the

VAT in government treasury (Treasury Challan) is there. It can be mentioned here that import of service is VAT exempted in the cases of import by 100 per cent export-oriented establishment, 100 percent deemed exporter and entities located in Export Processing Zone (EPZ) area.

Provisions of VAT deduction at source on imports against tender or work order

Sometimes, procurement provider organization supplies goods against tender importing the goods from abroad after obtaining tender. While making assessment of such imported goods at import stations necessary documents of tender or work order require to be submitted if after import the supply is to be made to any government, semi-government and autonomous bodies, bank, insurance and NGO as per paragraph 7(d) of SRO No 174-Law/2018/797-VAT, Dated: 07 June, 2018. When such tender documents are submitted Advance Trade VAT (ATV) is not charged on such imports. At the supply stage, 5 percent VAT has to be deducted at source considering the supply as procurement provider. Such importers very often make a mistake. They do not submit their tender documents at the import stage at times of making assessment due to ignorance of such procedure or due to the need of making assessment quickly or due to lack of proper guidance by the Clearing and Forwarding (C&F) Agent. As a result, ATV is collected at import stage. Again, at the supply stage, 5 percent VAT is deducted at source considering the supply as procurement provider. So, the importers who import for the purpose of making supply against tender to those organizations need to know these provisions and act accordingly.

Provision for VAT deduction at source when payment is made against local Letter of Credit

If the bank of the purchaser of any goods or service makes the payment on behalf of the purchaser through local Letter of Credit (L/C) or any other means against any VDS deductible purchase, then the bank shall deduct VAT at source and shall deposit it to the government treasury. In such case, the concerned bank shall make the deduction on behalf of the purchaser, since the bank is making payment on behalf of the purchaser. At present, sometimes, such purchases are made locally where payment is made through banking

channel. Here VDS requires to be deducted by the bank making payment.

Provisions when there is difference between tender price and declared/approved price

If the tender price of any goods is more or less than the declared/approved price, then as per the Standing Order No.-6/Mushak/92 dated: 21/01/1992 issued by the National Board of Revenue (NBR) at the production stage, VAT has to be paid on the tender price. The tender price and the price including VAT mentioned on the VAT Challan need to be the same. The VDS withholding entity shall take the supply ensuring such similarity of prices and shall make payment. Sometimes, at the field level, it is seen that the tender price of any goods is more than its price declared/approved. VAT Challan has been issued in declared/approved price. If the supplier is a producer or trader, then point is made not to deduct VAT at source since there is VAT Challan. Sometimes, the recipient of the goods does not deduct VAT at source because of not being aware of the procedure. This results in audit objections afterwards. In all cases (excepting goods with Tariff Value), tender price and declared/approved price need to be the same. After obtaining tender, if tender price is different from the declared/approved price of the goods, then the tender price is to be informed to the VAT Circle/Division Office and supply against the tender is to be made as per tender price. But if the goods are with Tariff Value, then VAT is to be paid as per tariff value. VAT Challan is to be issued. Total price mentioned in VAT Challan and tender price need to be the same. It has been mentioned that VAT has to be paid as per tariff value. In the case of goods with tariff value, if supply is made with VAT Challan, then VDS does not need to be deducted. There is a differing opinion that since tariff value is less than actual sell price, so VDS is to be deducted on the differential amount between tariff value and actual sell value. Such concept is flawed. Tariff value is the value determined by the NBR. Government wants to get VAT on the basis of tariff value in respect of the goods where tariff value has been determined. So, when VAT has been paid on the basis of tariff value, there remains no VAT obligation and therefore VDS deduction is not warranted.

Provisions for depositing VAT deducted at source by centrally registered entities

The centrally registered entities shall deposit all VDS deducted from their branches or sale centers through their central entity. In many cases, at the field level, VDS is deposited to the government treasury where branch or sale center is located or local VAT offices (Circle, Division) ask to deposit VDS deducted at the branches or sale centers at those local places. Such instructions are not right. For instance, insurance companies have many branches. All insurance companies are centrally registered as per S.R.O No. 167-Ain/95/119-Mushak, dated 20 September, 1995. Output VAT and VDS to be deposited to the government treasury from all branches shall be sent to the Head Office which is the center of the insurance company. The Head Office shall deposit it and report it to the local VAT office. But VAT on house rent of the branches is not to be deposited centrally. In the case of house rent of branch office, the VAT on house rent is to be deposited to the code of the local VAT Commissioner under whose jurisdiction the branch office is located and Treasury Challan is to be submitted to the local VAT Circle office.

Provisions for VAT deduction at source in the case of supply with multiple components

Sometimes, it is seen that there are multiple components within a particular supply. But price is mentioned altogether. Complexities arise regarding VDS deduction on such supply. So, provisions have been made to the effect that if there is any supply with multiple components, then in the tender or quotation or bill all components are to be mentioned separately. Each component has to be considered as a separate supply and VDS regulations have to be applied on each supply accordingly. As an example, it can be cited that, sometimes it is seen that, in a tender award has been given that machineries have to be installed and servicing of the machineries for a couple of years are to be done. These two components of works have been awarded by one tender. In such case, one component i.e., machinery installation has to be considered as one supply and servicing of those machineries for a couple of years has to be considered as another separate supply. Prices of both these components have to be mentioned separately in the tender

documents and bills. On these two components, VDS regulations have to be applied separately.

We have completed discussion of the first part. We have presented few matters sequentially. Those are: which entities shall deduct VDS. VDS has to be deducted compulsorily on 37 services. The provisions regarding VDS deduction on advertisement service. The provisions regarding VDS deduction on procurement provider. Provisions regarding VDS deduction beyond these 39 services. Provisions regarding VDS deduction on few more specific supplies. Provisions regarding VDS deduction on goods. Now, we shall start discussion on the second part mentioned earlier.

The cases where VAT deduction at source is not needed

(a) If any producer or manufacturer of goods supplies the goods directly to any at source VAT deducting authority issuing VAT Challan, then the seller shall not be considered as procurement provider, so VAT shall not have to be deducted at source on such supply. For instance, Bikash Bread and Biscuit Factory Limited is a producer of biscuits. Manusher Jonnoy NGO has floated tender to purchase biscuit to be distributed among the children of the poor. Bikash Bread and Biscuit Factory Limited has won the tender. Bikash Bread and Biscuit Factory Limited shall supply biscuit to Manusher Jonnoy NGO issuing VAT Challan i.e. paying production stage VAT as a producer. While making payment against the supply, Manusher Jonnoy NGO shall not deduct VAT at source. Full bill including VAT has to be paid to the Bikash Bread and Biscuit Factory Limited. There is no source VAT deduction. So, we have learnt one important principle of VDS i.e, **if a manufacturer supplies goods directly issuing VAT Challan, then VDS does not need to be deducted.**

(b) If any trader supplies goods directly to any at source VAT deducting authority issuing VAT Challan, he shall not be considered as procurement provider, so VAT shall not have to be deducted on such supply at source. Suppose, S. R. Enterprise is a trading organization. S. R. Enterprise purchases soap from Unilever Bangladesh Limited and sells it through whole-sale or retail basis issuing VAT Challan and paying proper VAT at the trading stage. If such trader supplies goods to any at source VAT deducting authority issuing VAT Challan and paying proper trade VAT, such organization

shall not be considered as procurement provider and as such VAT shall not have to be deducted from such supply. Suppose, Agrani Bank Limited has floated tender to purchase 5000 (five thousand) pieces of soap. S. R. Enterprise has won the tender. S. R. Enterprise has given the supply to Agrani Bank issuing VAT Challan i.e. paying proper trade VAT. In such case, S. R. Enterprise shall not be considered as procurement provider. So, VAT shall not have to be deducted by Agrani Bank while making payment from the bill of soap supply. It is worth mentioning here that the same shall also be applicable for those traders who issue Challan considered as VAT Challan. For instance, Agora is a trader. Agora issues Point of Sales (POS) generated Challan. Point of Sales (POS) generated Challan is considered as VAT Challan under certain conditions. So, if any such supply is made to any such at source VAT deducting authority by Agora with POS-generated Challan, the supply shall not be considered as a supply made by procurement provider and as such VAT shall not have to be deducted at source while making payment. Here, we have learnt another principle of VDS i.e, **when trader provides supply of goods issuing VAT-11, then VDS does not require to be deducted at source.**

(c) The organizations enlisted under Turnover Tax makes supply issuing own cash memo inscribed with Turnover Tax enlistment number. If such organization makes any supply directly to any at source VAT deducting authority issuing own cash memo inscribed with Turnover Tax enlistment number, he shall not be considered as procurement provider and as such VAT shall not have to be deducted at source from the supply while making payment. It is worth mentioning here that the number of organizations enlisted under Turnover Tax is limited. These organizations are small organizations. Generally, they do not make supply to at source VAT deducting authority. However, they have the right to make supply. So, people involved in purchase, bill payment etc. in at source VAT deducting organizations need to be able to identify a Turnover Tax organization. In the 11 digit (old) Business Identification Number (BIN), if the second digit is 2, it denotes that the organization is enlisted under Turnover Tax. In the new 9 digit online Turnover Tax registration certificate, 'Turnover Tax' remains written on the certificate. So, it is easy to understand the status of the supplier having seen the BIN. So, we now understand another principle of

VDS i.e, when the supply is made by an entity under Turnover Tax enlistment with own cash memo inscribed with enlistment number, then VDS does not require to be deducted.

(d) The organizations enlisted under cottage industry makes supply issuing own cash memo inscribed with enlistment number under cottage industry. If such organization makes any supply directly to any at source VAT deducting authority issuing own cash memo inscribed with enlistment number under cottage industry, he shall not be considered as procurement provider and as such VAT shall not have to be deducted from the supply while making payment. It is worth mentioning here that the numbers of organizations enlisted under cottage industry are very few. These organizations are very small organizations. Generally, they do not make supply to at source VAT deducting authorities. However, they have the right to make such supply. So, people involved in purchase, bill payment etc. at any withholding entity need to be able to identify a cottage industry. As per old BIN, the second digit of the eleven digits of the enlistment number of cottage industry is 3. They issue cash memo in their own format. In the online BIN, so far there is no provision for cottage industry.

(e) While making payment against the bill of fuel, gas, electricity, telephone, mobile, water etc. utility services, VAT will not have to be deducted at source. The bills issued by the suppliers of these services are considered as VAT Challan. Bills are to be paid with VAT. Fuel and gas is supplied from petrol pump. Since petrol pumps do not issue VAT Challan, so it was in the guidelines earlier that while purchasing fuel from petrol pump, VAT at the rate of 5% as procurement provider has to be deducted at source. Paragraph 3(Kha) of the General Order No.-06/Mushak/2018, dated 07 June, 2018 incorporates provisions to the effect that for purchasing fuel from petrol pump VDS deduction shall not be needed. Gas remained incorporated in that paragraph previously. So, while purchasing fuel (octane, petrol, diesel etc.) from petrol pump and CNG from CNG station, VDS do not require to be deducted at source. The provision has been enough business-friendly. Because VAT remains included in the price of fuel and gas. These are the prices fixed by government

inclusive of everything VAT too. So, there is no possibility of VAT evasion. So, VDS regulations is not needed there.

(f) If any goods with tariff value is supplied to any at source VAT deducting authority directly by the producer of the goods issuing VAT Challan on tariff value, then irrespective of the price of supply VAT will not have to be deducted at source. Because tariff value is fixed by the National Board of Revenue (NBR) i.e. the government. When VAT has been paid on the price fixed by the government, then the producer does not have any more responsibility about payment of VAT. If VAT Challan is issued properly on tariff value, there shall require no VAT deduction at source. It can be made clear with an example. Mango juice is a goods with tariff value. Tariff value of each pack of mango juice weighing 1000 mili litre is Taka 25 (twenty five). The producer at the production stage shall pay VAT at the rate of 15 percent on Taka 25 (twenty five) tariff value against a pack of mango juice weighing 1000 mili litre. His actual sale price may be different. Sometimes, the actual sale price of the goods with tariff value is several times higher than the fixed tariff value. The producer shall issue VAT Challan mentioning tariff value and paying VAT at tariff value but his receipt against the supply shall be actual sale price. In such case, there shall be no VAT deduction at source. Had it not been the goods with tariff value, the tender price, sale price and approved price would have required to have been the same.

(g) “Lessee of place and establishment” is a service under VAT system of Bangladesh. Commonly it is known as VAT on house rent. This is the VAT imposed on the tenant and paid by the tenant. This is not a VAT on the landlord. So, there is no need for VAT deduction at source. The tenant pays his VAT himself. The landlord has no responsibility to pay VAT on his house rent. The tenant shall pay the rent to the landlord as per agreement. If VAT is payable on the rent, the tenant shall pay the VAT from his own fund and shall send the Treasury Challan to the local VAT Office. On this service now VAT rate is 15%. However, on four types of house rent, VAT is exempted. Those are: (a) if VAT registered production place is rented; (b) house rent on completely residential purpose; (c) commercial house rent not exceeding 150 square feet area; and (d) if the place of VAT registered information technology enabled service (ITES) provider is rented.

(h) A provision came into force from 1 July, 2017 which stipulated that VDS deduction shall not be needed in the case of a single purchase amounting to no more than BDT 1,000/- (Taka one thousand only). There arises complexities to deduct VAT on small purchases. The amount of VAT is also not much in these cases. So, this provision was made not to deduct VDS on a single purchase amounting to BDT 1,000/- or less. But there arises complexities at the field-level to implement this provision. In most of the cases, it was understood by concerned people that VAT shall not be applicable on a single purchase amounting to BDT 1,000/- or less. So, such provision has been cancelled through General Order No.-06/Mushak/2018, dated 07 June, 2018. From now on, as it was before the above provision was made, VAT has to be deducted at source irrespective of the amount of the purchase, if it needs to be deducted as per other provisions.

We have mentioned earlier that the rules and regulations regarding VAT deduction at source (VDS) can be divided into four parts. Discussion on the first and second parts have been completed. Now, we shall start discussion on part three.

Formalities to be observed by the withholding entity after VAT deduction at source

Now we shall discuss what are to be done by the at source VAT deducting authority after deduction of VAT at source. There are mainly two functions, viz: (1) deposit of the deducted money to the government’s treasury; and (2) issuance of deduction certificate i.e. “Mushak-12kha”. Within 15 (fifteen) working days of VAT deduction at source, the deducted amount has to be deposited to the government treasury through Treasury Challan in the organizational code of the concerned Commissionerate of the VAT withholding entity. In the Treasury Challan, the Accounts Code should be written 1/1133/0000/0311. In the place of “0000” the organizational code of the concerned Commissionerate of the VAT deductor has to be written. The organizational codes of the VAT Commissionerates are : Dhaka (North) 0015, Dhaka (South) 0010, Dhaka (East) 0030, Dhaka (West) 0035, Chattogram 0025, Comilla 0040, Sylhet 0018, Rajshahi 0020, Rangpur 0045, Jashore 0005 and Khulna 0001. The Accounts Code of Large Taxpayers’ Unit (VAT) is 1/1133/0006/0311. In the

first column of the Treasury Challan, the name of the VAT deductor, his address, VAT registration number, names of the VAT Circle and Commissionerate under whose jurisdiction the VAT deductor falls have to be written below “the name and address of the person through whom payment is made”. In the second column of the Treasury Challan, the name of the provider of the goods or renderer of the service, address, VAT registration number, names of VAT Circle and Commissionerate under whose jurisdiction the supplier falls have to be written below “the name, title and address of the person/organization on whose behalf payment is made”. In this field “see overleaf for details” has to be written, if VAT deducted from more than one supplier organizations is to be deposited through one Treasury Challan. Then on the overleaf detailed break-up of all supplier organizations are to be written in the manner that a photocopy of this can serve their purpose.

Within no more than 5 (five) working days of the deposit, a deduction certificate in three copies need to be prepared and issued in the manner mentioned below in form “Mushak-12kha” with Fiscal Year-wise serial number. In one deduction certificate, information about more than one suppliers can be included using serial number in the manner that a photocopy of the same can serve their purpose. The first copy of the deduction certificate with original copy of Treasury Challan shall have to be sent to the VAT Circle Office of the at source VAT deducting authority. The VAT Circle Office, on the basis of the original copy of the Treasury Challan shall show the deducted amount of revenue in it’s revenue collection statement. Second copy of the VAT deduction certificate with a photocopy of the Treasury Challan shall have to be sent to the supplier organization for necessary entry in his VAT return. The third copy of the VAT deduction certificate shall have to be preserved by the at source VAT deducting authority for a period of 6 (six) years.

But while depositing money to the government treasury by cheque, the Treasury Challan is issued after encashment of the cheque. So, the Treasury Challan can not be obtained within 5 (five) working days of the deposit. In such cases, the deduction certificate is to be prepared and issued within no more than 5 (five) working days of the receipt of the Treasury Challan i.e. from the date mentioned on the Treasury Challan. If the authority deducting VAT at source is a

registered person, the amount deducted at source and deposited to the government treasury has to be shown against serial no. 5 and 16 of his VAT return of the concerned tax period. Entry of the deposited amount in the Current Account Book is not needed. But entry can be made in the Current Account Book, in that case, in one entry deposit is to be shown i.e, added with the balance and then in another entry payable is to be shown i.e, deducted from the balance; thus at the same time with deposit and payable the balace will be same.

Now we shall start discussion on the fourth part. How the service provider shall show the information of VDS deduction in his monthly return and how the withholding entity shall show necessary information in his monthly return those shall be discussed now.

Formalities to be observed by the supplier

The last portion of the discussion relates to how the supplier shall show the information of the VAT deducted at source in his VAT return. Supplier can be of two types, viz: (1) the suppliers who have supplied the 37 services mentioned earlier with payment of VAT; and (2) the suppliers who have supplied those services without payment of VAT.

When supply has been made with payment of VAT

We have mentioned earlier that as per the present procedures of VAT deduction at source, a supplier can supply the 37 services mentioned earlier to the at source VAT deducting authority with payment of applicable VAT or without payment of applicable VAT as per his choice. Such measures have been incorporated in the procedures of VAT deduction at source to facilitate the service providers. The service providers who do not maintain Current Account Book, deposit VAT of the previous month within fifteenth day of the next month and who maintain Current Account Book deduct payable VAT from Current Account Book while issuing every VAT Challan. In this general manner, VAT payable on the service provided can be paid by the service providers. Sometimes, for serving the purposes of taking input tax credit by the service receiver, service is provided with payment of applicable VAT. In such circumstances, i.e, if the applicable VAT against the service has been paid in normal course, those are to be adjusted through VAT return

following deduction at source. Such service renderers shall mention their total sale information in the concerned field of serial no. 1 of the VAT return. His total VAT payable has to be mentioned in the concerned field of serial no. 4 of the VAT return. If he has received any VAT deduction certificate in form "Mushak-12kha" against any service provided beforehand, then the amount mentioned in "Mushak-12kha" has to be entered in the concerned field of serial no. 12 of the VAT return. This is the way of making positive adjustment of the VAT paid earlier when applicable VAT has been paid by the service provider and VAT has been deducted by the service receiver. In the concerned field of serial 19 of form "Mushak-19" total amount of money has to be mentioned on the basis of the deduction certificate i.e. "Mushak-12kha" received in the concerned tax period.

When supply has been made without payment of VAT

Generally, VAT return for the previous month is submitted within the fifteenth day of the next month. For service renderers who do not maintain Account Current Book deposit the payable VAT through Treasury Challan and submit the Treasury Challan with the VAT return. In such case, entries for service provided in the concerned tax period i.e, month have to be done in the concerned fields of serial no. 1 and 4 of the form "Mushak-19". In the field 4 of serial no. 1 against description "net sale of taxable goods or services or goods and services" the amount of total VAT payable has to be written. The amount of VAT to be deducted at source from the above amount has to be written below the above figure in the field 4 within first bracket in the manner (. . . .). In the serial no. 4 of the return against the description "total payable tax (SD+VAT from serial 1)" the amount has to be written excluding the amount of VAT deductible at source from the figure mentioned in field 4 of serial 1. The service renderer shall make entry in serial no. 19 of VAT return after receiving VAT deduction certificate in "Mushak-12Kha". The amount of VAT deducted at source has to be mentioned in the serial 19 of the VAT return on the basis of the "Mushak-12Kha" received by the service provider in the tax period of the issuance of deduction certificate by the service receiver or in the immediate next tax period. "Mushak-12Kha" received and photocopy of the Treasury Challan have to be submitted with the VAT return. The amount of "Mushak-12Kha" pending has to be mentioned here in serial 19 below the figure within first bracket in the manner (. . . .). It is worth

mentioning here that by adding the amount of VAT deductible at source mentioned within bracket of serial no. 1 of the current VAT return with the amount of "Mushak-12Kha" mentioned in the serial no. 19 of the immediate previous VAT return and by deducting from the total the amount of "Mushak-12Kha" mentioned in serial no. 19 of the current VAT return we can obtain the pending amount of "Mushak-12Kha". The VAT Officers will know about the amount of pending "Mushak-12Kha" i.e, VAT not yet has been deducted at source having seen the amount mentioned within bracket of serial no. 19 of VAT return.

Thus, in the procedures of VAT deduction at source, provisions have been incorporated to provide service to the at source VAT deducting authority with payment of applicable VAT or without payment of VAT. Such provisions have been made to facilitate the service providers. Arrangements are there to make necessary adjustments making proper entries in the VAT return. Those who do not understand these entries to be made in VAT return, they find it difficult to do the things after VAT deduction at source and deposit. If the ideas expressed here are understood, inshaallah, the procedures of VAT deduction at source shall seem easier and simpler to the readers.

VAT inclusive and VAT exclusive price and VDS

While deducting VDS, VAT-inclusive or VAT-exclusive matters sometimes come to the fore and sometimes difficulties arise with regard to this. The origin of such complexities lie much before. I have mentioned before that VDS is not only the subject of those personnel of an organization who are responsible for deducting VDS, rather VDS is the subject of almost all personnel working there. Starting from selection of vendor for any purchase through signing agreement with the vendor, preparation of specification of the goods, issuance of tender notice, scrutinizing the tenderers, selecting lowest tenderer, issuance of work order, taking delivery of the goods, testing quality of the goods, warehousing the goods, processing the bill for payment, making payment of the bill, performing audit, performing post-audit, all the people involved with these activities need to know VDS related actions and need to act accordingly. Throughout the process if everybody knows his responsibilities,

then while making payment there shall not arise any challenge to deduct VDS from VAT-inclusive price or VAT-exclusive price. These things shall be settled much earlier. These matters are to be mentioned in the agreement. It is to be noted here that any such agreement can not be made which is contrary to VAT law or any other law prevailing in the country. For instance, an agreement can not be made effecting that purchaser shall not pay VAT but seller shall pay VAT. This is against the basic principle of VAT system.

One basic thing of VAT system is, VAT is consumption tax or consumers tax. The purchaser or consumer of the goods or service shall pay VAT. Purchaser or consumer pays two types of money while purchasing anything; one is the price of the goods or service and the other is VAT. When the question of VDS deduction comes, then the VAT fraction is to be deducted that has been paid by the purchaser of the goods or service. Purchaser i.e, who makes payment against goods or service shall deduct VDS. We shall now discuss one issue about this that crops up frequently. Suppose, an organization wants to purchase consultancy service. The organization has entered into an agreement with a consulting firm to the effect that in exchange of BDT 5,00,000 (Taka five lac only), the service shall be purchased. At this stage, nothing like the price of the service, the amount of VAT upon the service, how much money is to be deducted at source, none of these have been mentioned in the agreement. I have mentioned before that the officials involved in the preparation and execution of agreement also needs to know the provisions regarding VDS. The consultant has submitted a bill for BDT 5,00,000 (Taka five lac only) on completion of the work as per agreement. Bills payable section of the organization wants to deduct 15% VAT amounting to BDT 75,000 (Taka seventy five thousand only) and pay the consultant the rest amount BDT 4,25,000 (Taka four lac and twenty five thousand only). But consultant shall not accept that anyway. Consultant wants BDT 5,00,000 (Taka five lac only) in full. Such type of problems frequently arise. The problem has been created principally because while making the agreement price and VAT have not been well clarified. However, what is the solution to the issue? The solution to the issue lies in the inherent principle of VAT. One basic principle of VAT system is, VAT shall be paid by the purchaser or consumer of the goods and services. In the present case BDT 5,00,000 (Taka five lac only) has to be paid to te consultant.

Because that is the price of his service. VAT amounting to BDT 75,000 (Taka seventy five thousand only) has to be paid from the fund of the purchasing organization. In such case, a problem is, sometimes it is seen that for the purchase of that service, the organization allocated a fund amounting to BDT 5,00,000 (Taka five lac only). So, it is not being possible to pay more money as VAT additional to that allocated money. Since there is shortage of fund, had the persons involved in the making of the purchase agreement had clear concept regarding VDS provisions, then they would have made the agreeemnt in the manner that the VAT-inclusive price of the service is BDT 5,00,000 (Taka five lac only). In such case, while making payment, 15% VAT has to be deducted from within the BDT 5,00,000 amount and the rest has to be paid to the consultant. Had it been inserted in the agreement, then the consultant would have known it earlier that he will be paid the amount deducting VAT from BDT 5,00,000. So, he would not have raised objection now. Another solution to the problem is, if in anyway the consultant can be made understood and agreed that while making agreement, there was a mistake of not inserting such provisions in the agreement. In true sense, the price of the service is not BDT 5,00,000. Rather the price of the service is the price arrived at after deducting 15% VAT from BDT 5,00,000. If consultant does not agree with this, then the purchaser organization has to pay VAT. Generally, the consultant agrees with such request because he also wants to maintain good relations with the organization for obtaining future works. It is also to be understood how VAT is to be calculated from VAT-inclusive price. This method has been discussed in details in my Bangla version book, Vol. III, sub-para 13 'VAT Calculation'. VAT-inclusive price has to be divided by 100 plus rate of VAT. Then the result has to be multiplied by the rate of VAT. Now, you get the VAT amount. If BDT 5,00,000 is VAT-inclusive price, and if rate of VAT is 15% in this case, then while BDT 5,00,000 is divided by 115, you get BDT 4,347.82. If you multiply BDT 4,347.82 with 15, then you get BDT 65,217.39. So, BDT 65,217.39 is the VAT amount within BDT 5,00,000. If you subtract VAT portion BDT 65,217.39 from total VAT-inclusive amount BDT 5,00,000, then you get price of the service, here BDT 4,34,782.61.

Rate of which time shall be effective

While deducting VDS, this sometimes become an issue – which VAT rate shall be effective. To effect VAT rate in respect of normal VAT payable and VDS are not same. Section 4(1), 6(2) and 6(3) stipulates provisions regarding the time of VAT rate shall become effective for normal payable VAT. There are three events. When one of those events happens, the rate of VAT prevailing at that time shall be applicable in case of that supply. Those three events are as follows:

- a) when goods are delivered or services are rendered;
- b) when VAT invoice in respect of the supply is issued; and
- c) when payment is made in full or in part with regard to the supply.

Of these three events, when one event occurs first, the VAT rate prevailing at that time shall be applicable with regard to that supply. Rate of VAT generally does not change. With regard to goods, the rate of VAT is almost static. In our country, the standard rate of VAT is 15%. At present, there are 6 truncated VAT rates on 15 services; those rates are 2%, 3%, 4.5%, 5%, 7% and 10%. Previously, there were 9 truncated VAT rates. During last budgetary measures (FY 2018-19), 3 truncated rates have been deleted that have come into effect from 07 June, 2018. Such rate change generally occurs during budgetary measures i.e, June. Throughout the year generally such VAT rate change does not occur. This is all about application of VAT rate with regard to VAT payable on supply of goods and services.

With regard to VDS, the time of the VAT rate that shall become applicable is easier than the above. Sub-section (4KaKa) of section 6 of the VAT Act, 1991 stipulates that with regard to VDS the rate of VAT that remains effective during the payment of the bill and deduction of VDS shall be applicable. Such provision has been enacted by the Finance Act, 2013. Prior to that there were complexities with regard to applicability of VAT rate while deducting VDS. Suppose, a service has been rendered from February to April throughout these three months period. Bill against the service has been submitted in May while VAT rate was 5%. Bill could not be paid in May due to shortage of fund. Bill is being paid in July. Meanwhile, in June, rate of VAT has been changed. Present rate of VAT is 6% while the bill is being paid. So, VDS has to be deducted at the rate of 6%. If the service renderer is reluctant to allow deduction of 1% more VAT from his bill, that was not in the agreement, then the

service recipient has to pay additional 1% VAT from own fund because VAT is service recipient's liability.

Please see the following VDS tips for easy understanding of VDS regulations. Almost all regulations regarding VDS have been made compact and expressed in the following 10 tips sequentially. Hope, on completion of reading of these tips, the readers shall understand the VDS matters more clearly and could practice accordingly.

VDS Tips

VDS provisions in case of purchase of service

Tips-01: Suppose, you are Finance Manager of a VDS withholding entity. A purchase bill has been placed before you. You will require approving the bill for payment. You have to decide whether VDS deduction is needed on the bill or not. When such purchase bill is placed before you, then **your first thought should be whether the bill is for the purchase of service or for the purchase of goods**. If the bill is for the purchase of service, then you have to go to Tips-2. If the bill is for the purchase of goods, then you have to go to Tips-6. Suppose, the bill is for the purchase of service. So, please see Tips-2.

Tips-02: We know that there is a list of 39 services in the paragraph 2 of VDS related General Order No.-06/Mushak/2018, dated 07 June, 2018 issued by NBR. In serial no. 5 of the list there is **advertisement agency** service and in serial no. 19 of the list there is **procurement provider** service. If we keep those two services at bay, there remains 37 services. We shall discuss these two services later. One of the basic and very important VDS provision is on these 37 services VDS deduction is compulsory under all circumstances. If there is VAT Challan, VDS is to be deducted; if there is no VAT Challan, VDS is to be deducted. If VAT has been paid, VDS is to be deducted; if VAT has not been paid, VDS has to be deducted. If VAT remains included in the agreement, VDS has to be deducted; if VAT does not remain included in the agreement VDS has to be deducted. If the price is VAT-inclusive, VDS has to be deducted; if the price is VAT-exclusive, VDS has to be deducted. Summarily, on those 37 services, under all circumstances VDS has to be deducted. There is no such circumstance under which VDS does not require to be deducted on these 37 services. So, raising any such hypothetical circumstance is unnecessary. We have to learn what have to be done following VDS deduction on these 37 services for adjustment. There are procedure, those have been discussed later.

Tips-03: In the above tips-2, it has been asserted that on those 37 services under all circumstances VDS has to be deducted compulsorily. Then a question remains. If the service provider provides the service paying VAT in normal course and if service recipient deducts VDS compulsorily as per above provisions then on

the same supply of service VAT is paid twice. Solution to this question has been there in the General Order related to VDS. It is stipulated in the paragraph 5(Ka) of the above General Order that under such circumstances, the service provider shall make positive adjustment once in his monthly VAT return on the basis of the VDS deduction certificate (Mushak-12Kha) issued by the withholding entity on completion of VDS deduction. So, now we understand the basic VDS actions of service purchaser with regard to those 37 services.

Tips-04: With regard to the service of advertizing agency, the VDS procedure is a bit different. The service provider i.e, advertizing agency shall issue and submit VAT Challan with the bill to the service recipient, it is generally demanded by law. The VAT Challan has to be attested by the Assistant Revenue Officer (ARO) or Revenue Officer (RO) of the VAT Circle Office under whose jurisdiction the service renderer is located. If such properly attested VAT Challan accompanies the bill, VDS does not require to be deducted. Bill amount including VAT has to be paid to the service provider i.e, advertizing agency. The service provider shall pay VAT in due course. If such properly attested VAT Challan is not there with the bill or if there is no VAT Challan at all then 15% VDS has to be deducted at source. It can be mentioned here that in no other case of VAT there is the provision for attesting VAT Challan by VAT Official. Only in this case, such provision has been made to address a special need.

Tips-05: So far we have discussed a total of 38 services, 37 services and advertisement service. We shall discuss procurement provider service later. For the time being, we suppose that procurement provider service has been discussed. Then, we have discussed a total of 39 services. If the purchase bill which has been placed before you falls beyond those 39 services, then primarily you do not have any VDS obligation on that purchase. But you have the responsibility to check whether the service provider has paid VAT on the service in due course [(VAT Act 1991, Section 37(2)(KaKa) and (Ta)]. **You may check VAT Challan, Treasury Challan and Account Current Register to be certain about it.** It is generally requires that a VAT Challan accompanies a supply. It is sufficient to have a VAT Challan

which appears to be true. Then VDS deduction shall not be needed. Even if there is VAT Challan, you may ask for Treasury Challan as an evidence of depositing the VAT involved with the supply to the government treasury. If the service renderer provides you Treasury Challan, then you are sure that VAT involved with the supply has been deposited to the government treasury. So, you do not need to deduct VDS. If the service provider has paid VAT subtracting from the balance of his Account Current Register (Mushak-18), then you have to ask for photocopy of the concerned page where the VAT Challan involved with the supply has been entered and VAT has been subtracted. If it is properly subtracted there, you do not require deducting VDS from the bill. If in the above ways you can not be sure that the service provider has paid VAT, then you have to deduct VDS on the bills of these services at the rate prevailing on the services. We have discussed all services excepting procurement provider. Procurement provider shall be discussed later while we shall discuss VDS provisions on goods. Because procurement provider service is the service of providing goods to the withholding entities.

VDS provisions in case of purchase of goods

Tips-06: Suppose, you are Finance Manager of a VDS withholding entity. A purchase bill has been placed before you. You will require approving the bill for payment. You have to decide whether VDS deduction is needed on the bill or not. When such purchase bill is placed before you, then **your first thought should be whether the bill is for the purchase of service or for the purchase of goods.** Suppose, the bill is for the purchase of goods.

Tips-07: When you have purchased goods, you are to determine the status of the vendor/supplier. **The supplier of goods can have any one of the three status; viz: (a) manufacturer supplier; (b) trader supplier; and (c) procurement provider supplier.** Having scrutinized the VAT registration certificate (Business Identification Number-BIN), Taxpayers Identification Number (TIN), trade license, tender, agreement and other related documents you have to ascertain the status of your vendor/supplier. If need be, you have to visit the premises of your vendor/supplier to see for yourself his practical status. It can be mentined here that a VAT registered person can be a manufacter, a trader, a service renderer, an

importer or an exporter. Procurement provider falls under service renderer, this shall be detailed later.

Tips-08: In this tips-08, we shall discuss important VDS principle. When manufacturer has given supply of goods directly issuing VAT Challan, VDS deduction is not needed. If manufacturer gives supply of goods directly without issuing VAT Challan, then 15% VDS requires to be deducted – not 5%. When trader has given supply of goods directly issuing VAT Challan, VDS deduction is not needed. If trader gives supply of goods directly without issuing VAT Challan, then 5% VDS requires to be deducted – not 15%. If vendor/supplier is a procurement provider then 5% VDS has to be deducted at source because procurement provider service remains included in the list of 37 services where VDS deduction is compulsory under all circumstances. While discussing service, we mentioned that we shall discuss procurement provider with goods. In the following tips, procurement provider shall be discussed in details.

Tips-09: Who is a procurement provider? Procurement provider is neither a manufacturer not a trader. Procurement provider purchases from the manufacturer then makes supply. Procurement provider purchases from the trader then makes supply. Procurement provider imports against tender/work order then makes supply. While making purchase from small shops (package VAT) who have not issued you VAT Challan, 5% VDS has to be deducted, i.e, you have to pay 5% VAT from your own fund. Because you have paid the price of the goods to the shop, there is no scope of deduction from that price. Shops under package VAT falls under trader category. For traders, VDS principle is when trader has issued VAT Challan while supplying goods, VDS deduction is not needed. These small traders do not issue VAT Challan. Moreover, their actual turnover is much higher than the turnover fixed for package VAT shops. So, 5% VDS needs to be deducted or paid from own fund while purchasing from these shops. We have mentioned earlier that a provision was inserted in the VDS regulations that came into effect on 1 July, 2017 which stipulated that on a single purchase amounting to BDT 1,000 (Taka one thousand) only, VDS deduction is not needed. That provision has been cancelled. The cancellation came into effect on 07 June, 2018. A basic difference between trader and procurement provider is trader procures and stores at a specific place from where

trader makes the supply but procurement provider purchases from manufacturer or trader or imports from abroad and then makes the supply directly – generally without storage. Trader has a specific place of business where he stores the goods. Procurement provider does not have any such place. Procurement provider prepares business documents (trade license, TIN, BIN etc.) using an address but generally it remains obscure. Trader sells to everyone but procurement provider sells only against tender or work order. Trader takes part in tender to supply only those goods it deals but procurement provider takes part in tender to supply any goods he can afford.

Tips-10: Who is not a procurement provider?

The following shall not be considered as procurement provider:

- supply of goods exempted by the First Schedule of the VAT Act, 1991;
- supply of goods by manufacturer or trader issuing VAT Challan;
- supply of goods by an entity enlisted under turnover tax or cottage industry with own cash memo mentioning enlistment number;
- supply of any service shall not be considered as procurement provider since services remain specifically defined; it shall be the concerned service under the service title it falls;
- supply of tiffin to school;
- supply of primary, secondary and equivalent text books printed against the work order given by National Curriculae and Textbook Board;
- supply of cotton;
- supply of waste and scrap paper;
- supply of cullet (broken piece of glass);
- supply of plastic waste;
- supply of cattle bone to be used for inputs of gelatine capsule; and
- supply of jute goods.

[বিধি ১৮খ দ্রষ্টব্য]
গণপ্রজাতন্ত্রী বাংলাদেশ সরকার
জাতীয় রাজস্ব বোর্ড, ঢাকা
উৎসে মূসক কর্তনের প্রত্যয়নপত্র

উৎসে মূসক কর্তনকারীর নাম: ব্যবসায়ী সগাঙ্ককরণ নম্বর (BIN):
ঠিকানা:..... ইস্যুর তারিখ:
মূসক নিবন্ধন নম্বর (যদি থাকে):.....
সার্টিফিকেট নম্বর :.....

আমি, এই মর্মে প্রত্যয়ন করিতেছি যে, মূল্য সংযোজন কর (মূসক) আইন ও বিধি অনুযায়ী নিম্নে উল্লিখিত সরবরাহকারীর নিকট হতে উৎসে মূসক কর্তন করা হইয়াছে। বিস্তারিত নিম্নে উল্লেখ করা হইল:

ক্রমিক নং	সরবরাহকারীর নাম ও ঠিকানা	সরবরাহকারীর ব্যবসায়ী সগাঙ্ককরণ নম্বর	বিলে উল্লিখিত অর্থের পরিমাণ/ মূল্য সংযোজন কর নিরূপণযোগ্য পণ্য বা সেবার মূল্য বা কমিশন	বিল পরিশোধের তারিখ	উৎসে কর্তিত মূসকের পরিমাণ (অংকে)	প্রযোজ্য সেবা খাত ও কোড	ট্রেজারিতে/ অনলাইনে কর জমা প্রদানের/বুক ট্রান্সফারের চালান/রিসিস্ট/ সনদ নং ও তারিখ	মন্তব্য
(১)	(২)	(৩)	(৪)	(৫)	(৬)	(৭)	(৮)	(৯)

আমি (নাম ও পদবী) -----, সজ্ঞানে ও সঠিকভাবে উপরি-উল্লিখিত তথ্য প্রদান করিলাম।

নাম, পদবী ও স্বাক্ষর

প্রাপক:

রাজস্ব কর্মকর্তা,
..... সার্কেল
পূর্ণ ঠিকানা

অনুলিপি:

ব্যবস্থাপনা পরিচালক/স্বত্বাধিকারী
মেসার্স
পূর্ণ ঠিকানা

**N. B.: Updated upto January, 2019
- The End -**