

VAT Deduction at Source (VDS) Procedure, 2013

VAT deduction at source (VDS) is a very important matter today to them who are engaged in economic activities. Many of the organizations require knowing the rules and procedures regarding VDS. There are some organizations with whom VAT does not apply to any other way but they have the obligation to deduct VAT at source. Most of these organizations want to remain compliant but lack of knowledge in the area is a bar to be compliant. 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. So, these organizations want to know themselves, what are the rules and regulations regarding VDS. I have written series through my column "VAT in Easy Language" published in the Daily Jugantor to make the people aware regarding VDS. Following is mainly the translation of those write-ups published in the Daily Jugantor. Things have been expressed there in easy language and sequentially. The rules and regulations of VDS remain scattered in the provisions of the Value Added Tax Act, 1991 and the Value Added Tax Rules, 1991 and few orders made thereunder. The most important of those orders is General Order No-25/Mushak/2013, Dated: 06 June, 2013. The ideas expressed here have been taken from those provisions of the Act, Rules and Orders. Since this is for easy understanding of the people concerned, so references have not been given 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 will prevail. However, the readers are requested to bring that into my notice for future corrections.

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 case of Value Added Tax (VAT) and Income Tax. When it becomes difficult 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 it's source. 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 lie the responsibility to pay Income Tax (IT). 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 is making payment. Here employer is the source of money. So, the Government 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. Had it been so that all people are paying Income Tax as per rules, nobody is evading Incoming Tax then,

there would not have been 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 will encash it, Income Tax will be deducted from the interest. When you are supplying anything to any organization participating in any tender, while making your payment Income Tax will be deducted at source. In the same manner, there are provisions to deduct VAT 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 detect all those evasions. So, the Government has asked certain organizations to deduct VAT at source on their certain purchases i.e. goods and services. Generally, services those are evasion-prone 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 parts, viz: (1) who will deduct VAT at source, which are the services requiring VAT deduction at source and the rates of such deduction and which are the services do not requiring 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. Discussions follow as per the above sequence.

Organizations upon which the responsibility of VAT Deduction at Source lie:

Nine 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);

It is worth mentioning here that the service of English medium school is VATable. That must not be equated with VDS. VDS is deducted from the purchase of goods and services while making payment. On the service of English medium schools, VAT is to be collected along with tuition fee and to be paid to the Government treasury by the school authorities. VAT remain imposed on the English medium schools where

foreign curricula are taught in English medium. If our national curricula are taught in English medium, VAT will not be imposed there.

When these organizations make payment against their purchase, it is to be examined whether there lie the obligation for deducting VAT at source. If there is obligation, VAT requires to be deducted from the bill while making payment. In spite of having the obligation of VAT deduction at source if VAT is not deducted at source then the undeducted VAT will have to be realized from the organization not deducting VAT with two percent monthly simple interest. If VAT is deducted at source but not deposited to the government treasury within the specific time (presently 15 working days), then the undeposited money is to be deposited with two percent monthly simple interest and a monetary penalty worth about Taka twenty five thousand each can be imposed upon the person who has deducted VAT at source and upon the person who was responsible for depositing the money to the government treasury and upon the chief executive of the organization. So, the persons serving in these organizations in accounts, audit, procurement, supply chain management, bills payable, etc. sections need to have transparent updated knowledge regarding VAT deduction at source.

So far, we have come to know the organizations who are responsible for deduction of VAT at source. Now we need to know the services where deduction of VAT at source is needed. At present, there are 37 specific services from where VAT has to be deducted at source while making payment. Those services have been listed in the paragraph 02 of NBR's General Order No-25/Mushak/2013 dated: 06 June, 2013. If any of the above-mentioned 9 organizations take any of those 37 services, then irrespective of issuance or non-issuance of Mushak Challan by the provider of services and irrespective of payment or non-payment of VAT on those services by the service provider, VAT has to be deducted at source while making payment. After deduction of VAT and depositing it to the government treasury, the payment or non-payment issues by the service provider will have to be addressed making some entry in the next VAT return. This process of entry in the VAT return will be discussed later. The summary is that if any of the above-mentioned 9 organizations purchase any of the 37 services, while making payment, the applicable VAT will have to be deducted at source. There is no exception to it. In all circumstances, VAT has to be deducted at source on these 37 services. Generally, the service receivers do mistake on this point. They point towards different practical circumstances and argue for non-deduction. The legal status of this point is that VAT must be deducted on these 37 services by those 9 organizations at source. A list of these 37 services has been given below. The procedures after deduction will be discussed later.

**List of services where VAT deduction
at source is mandatory**

Serial No.	Service Code	Name of Service	Rate of VAT deduction at source
01.	S002.00	Decorators and caterers	15%

Serial No.	Service Code	Name of Service	Rate of VAT deduction at source
02.	S003.10	Motor garage and workshop	4.5%
03.	S003.20	Dockyard	4.5%
04.	S004.00	Construction Firm	5.5%
05.	S008.10	Printing press	15%
06.	S009.00	Auctioneer	15%
07.	S010.10	Land developer	1.5%
08.	S010.20	Flat seller	1.5%
09.	S014.00	Indenting agency	15%
10.	S020.00	Survey agency	15%
11.	S021.00	Organization renting out plant and capital machinery	15%
12.	S024.00	Seller of furniture	(a) at production stage 6%. (b) at showroom 4% (if VAT Challan in support of 6% VAT payment at production stage is available, if not available then 6+4=10%).
13.	S028.00	Courier and express mail service	15%
14.	S031.00	Individual, organization or establishment performing repair and servicing of taxable goods in exchange of consideration.	15%
15.	S032.00	Consultancy firm and supervisory firm	15%
16.	S033.00	Awarder of lease (Izaradar)	15%
17.	S034.00	Audit and accounting firm	15%
18.	S037.00	Procurement provider	4%
19.	S040.00	Security service	15%
20.	S045.00	Lawyer	15%
21.	S048.00	Transport contractor	(a) for transport of petroleum products 2.25%. (b) for transport of other products 4.5%
22.	S049.00	Rent-a-car	15%
23.	S050.10	Architect, interior designer or interior decorator	15%
24.	S050.20	Graphic designer	15%
25.	S051.00	Engineering firm	15%
26.	S052.00	Rentor of sound and lighting instruments	15%
27.	S053.00	Board meeting attendee	15%
28.	S054.00	Advertiser through satellite channel	15%

Serial No.	Service Code	Name of Service	Rate of VAT deduction at source
29.	S058.00	Organization renting out chartered aircraft or helicopter	15%
30.	S060.00	Purchaser of auctioned goods	4%
31.	S065.00	Organization performing the works of cleansing and maintenance of building and floor	15%
32.	S066.00	Seller of lottery ticket	15%
33.	S071.00	Event organizer	15%
34.	S072.00	Organization supplying and managing human resources	15%
35.	S099.10	Information Technology Enabled Services (ITES)	4.5%
36.	S099.20	Other Miscellaneous Services	15%
37.	S099.30	Sponsorship Services	7.5%

At this stage, a question arises frequently. The question is, if the provider of service provides any of those 37 services on payment of VAT himself as per general rules, 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 as well 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 next return. 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 a certification in "Mushak-12kha" form. On receipt of such certification, the service renderer shall post it in the serial 12 of his VAT return in the tax period of issuance of certification 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 no.-5(a) of the General Order No.-25/Mushak/2013, Dated: 06 June, 2013 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 or without payment of VAT. Whatever the case, they need to make necessary adjustments through 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 receiver shall issue VAT Challan. The VAT Challan has to be certified by the Assistant Revenue Officer (ARO) or Revenue Officer (RO) of his local Value Added Tax Office i.e. Circle Office. If such properly certified VAT Challan is submitted with the bill, the service recipient will not deduct VAT at source from the bill. 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 service in our VAT system, VAT Challan requires to be certified. In fact, unlike excise system, VAT system is self-clearance system. The VAT registered person issues VAT Challan himself and makes the supply. Advertising agency is a special type of service. To prevent the problem of accrual of continuous positive VAT balance to the return of media agency (considered as advertising agency), such mechanism of Challan certification 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 of 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.

VAT deduction at source on Procurement Provider:

Of the 37 services, 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. 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. 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. 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. If the entity submitting tender is a Procurement Provider then on his VAT registration certificate 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 and 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 242-Law/2012/659-VAT, Dated: 28 June, 2012. 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 4 percent VAT as the service of Procurement Provider.

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 4 percent requires to be deducted at source.

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 and Procurement Provider have also been discussed. In course of discussions, we have mentioned that if the supplier is a producer himself and makes the supply issuing VAT Challan, then VAT deduction at source on the supply is not needed. In the same manner, if the supplier is a trader and makes the supply issuing VAT Challan, then deduction of VAT at source will not be needed. So far discussions have been done regarding VAT deduction at source on 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 25/Mushak/2013, Dated: 06 June, 2013 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 receiver shall not deduct VAT at source. Otherwise, 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. 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 number 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. 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 Commissioner is needed as per the present procedures of VAT in Bangladesh. Treasury Challan can also be asked to be additionally 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 Current Account, then the attested copy of concerned page of the Current Account can be taken as an evidence of deposit. It can be examined whether the Challan issued remains included in the Account Current 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 paid. 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 while making payment. Otherwise, VAT has to be deducted at source. Beyond those 39 services, if VAT has not been paid by the service provider, then VAT requires to be deducted by the service receiver. Then the question arises at what rate VAT has to be deducted. One needs to know the applicable rate on that service. Generally, in our country rate of VAT is 15%. But on few services there are truncated rates. At present, there are truncated VAT rates on 23 services. A list of those 23 services with truncated VAT rates is given below. If the service falls under these 23 services then VAT has to be deducted at the rate mentioned against the service. If the service falls beyond these 23 services, 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
01.	Non-AC restaurant	6%
02.	Motor garage and workshop *	4.5%
03.	Dockyard *	4.5%
04.	Construction firm *	5.5%
05.	Land developer *	1.5%
06.	Flat seller *	1.5%
07.	Color laboratory (Photo studio)	4.5%
08.	Furniture *	(a) At factory 6% (b) At show room 4% (If VAT Challan in support of payment of 6 percent VAT at factory level is there,

Sl. No.	Name of the service	Truncated VAT rate
		otherwise 6+4=10 percent has to be deducted at show room stage)
09.	Goldsmith	2%
10.	AC Bus	10%
11.	AC launch	10%
12.	AC train	10%
13.	Procurement provider *	4%
14.	Transport contractor *	(a) for transport of petroleum products 2.25% (b) for transport of other products 4.5%
15.	Distributor of electricity	5%
16.	Purchaser of auctioned goods *	4%
17.	Immigration adviser	4.5%
18.	English medium school	4.5%
19.	Lessee of place and establishment	9%
20.	Seller of branded ready-made garments	5%
21.	Information technology enabled services (ITES) *	4.5%
22.	Sponsorship Service *	7.5%
23.	Meditation Service	7.5%

It can be mentioned here that of the above 23 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. In the following paragraphs, we shall discuss few special matters of VAT deduction at source.

VAT deduction at source as per Rule-18E:

As per Rule-18E 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.

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, 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 is there.

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 242-Law/2012/659-VAT, Dated: 28 June, 2012. When such tender documents are submitted Advance Trade VAT (ATV) is not charged on such imports. At the supply stage, 4 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, 4 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 or any other means against any at source VAT 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 approved/declared price:

If the tender price of any goods is more or less than the approved price, then as per the Standing Order No.-6/Mushak/92 dated: 21/01/1991 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 at source VAT deducting authority 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 approved by the VAT authorities. VAT Challan has been issued in approved prices. 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 approved or declared price need to be the same. After obtaining tender, price declaration is to be given anew if the tender price is different from the price approved by the VAT authorities. But if the goods are with Tariff Value, then there shall be differences.

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, he shall not be considered as procurement provider, so VAT shall not have to be deducted on such supply. For instance, Bikash Bread and Biscuit Factory Limited is a producer of biscuits. Manusher Jonnyo NGO has floated tender to purchase biscuit to be distributed among the poor. Bikash Bread and Biscuit Factory Limited has won the tender. Bikash Bread and Biscuit Factory Limited shall supply biscuit to Manusher Jonnyo NGO issuing VAT Challan i.e. paying production stage VAT as a producer. While making payment against the supply, Manusher Jonnyo NGO shall not deduct VAT at source.

(b) If any trader supplies the 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 by trader. 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 its 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 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.

(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 from the supply while making payment. It is worth mentioning here that the numbers 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. The second digit of the ten digits of the enlistment number of Turnover Taxable organization is 2. They issue cash memo in their own format.

(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 authority. However, they have the right to make such supply. So, people involved in purchase, bill payment etc. in at source VAT deducting organizations need to be able to identify a cottage industry. The second digit of the ten digits of the enlistment number of cottage industry is 3. They issue cash memo in their own format.

(e) While making payment against the bill of 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.

(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 15 (fifteen). The producer at the production stage shall pay VAT at the rate of 15 percent on Taka 15 (fifteen) 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.

(h) If there are several components of a supply, there arises complexities to deduct VAT at source. In such case, all components of the supply have to be mentioned separately in the tender, quotation or bill, prices of those components also have to be mentioned separately. VDS related provisions have to be applied upon all those components considering each of those supply as separate supply.

We have told earlier that the rules and regulations regarding VAT deduction at source can be divided into three parts, viz: (1) the cases where VAT deduction at source is required and where do not require; (2) following deduction how it has to be deposited to the government treasury and how certification i.e. “Mushak-12kha” can be issued; and (c) how the information regarding VAT deduction at source can be shown in the VAT return of the service provider and service receiver. Discussion on the part (1) is hereby completed. In the following, discussion will be started on the part (2).

Formalities to be observed by the withholder 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's treasury through Treasury Challan in the organizational code of the concerned Commissionerate of the VAT deductor. 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, Chittagong 0025, Comilla 0040, Sylhet 0018, Rajshahi 0020, Rangpur 0045, Jessore 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 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.

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 provider. Sometimes, for serving the purposes of taking input tax credit by the service receiver, service is provided with payment of applicable VAT. Moreover, the registered persons under Large Taxpayers' Unit (LTU-VAT) submit their VAT return online. While submitting VAT return online, there is no scope of making entry of any other description in the fields of form "Mushak-19" other than numeric amount. So, they can not avail the procedures mentioned in the following paragraph. In such circumstances, i.e. if the applicable VAT against the service has been paid, those are to be adjusted through VAT return. 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. But if the registered units under Large Taxpayers' Unit (LTU-VAT) provide services without payment of VAT, then in the hard copy of the VAT return, entries are to be done properly as per the following procedure.

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 easy and simple to the readers.

THE END