

VAT ADMINISTRATION: IS IT A PROBLEM FOR INDUSTRIAL DEVELOPMENT IN BANGLADESH ?

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INTRODUCTION

This paper explores whether VAT administration is a problem for industrial development in Bangladesh. Its major message is that VAT administration warrants more stress to simplify the rules and regulations of the VAT system. As we all know, value added tax is commonly known as VAT. It is a breakthrough in the traditional indirect taxation system. It was introduced in Bangladesh in July, 1991. The system was adopted first by the French in the year 1936, after many years of academic and practical experimentation, as a single stage. It was extended to the wholesale stage in 1954 and to the retail stage in 1966. In a highly developed country like France, it took 30 years for this tax to be implemented to cover all manufacturing, trading and service industries. And then it was adopted by many other developed and developing countries considering its utility, simplicity, comprehensiveness and neutrality. But, some adverse and unclear provisions of the VAT law matched with the bureaucratic approach of administration caused hindrance to the industrial development of Bangladesh. To express this idea, this paper presents the difficulties of tax payers relating to the focal issues of the VAT System.

PRICE

As per Sec 5 (2) of the VAT Act 1991, VAT is payable upon the price realizable from a customer by a manufacturer or producer. Price as noted in the said Sec consists of all costs of the manufacturer or producer such as commission charges, all duties including supplementary duty and taxes excluding VAT. The cost of a manufacturer is commonly known as the manufacturing cost.

For a company having manufacturing activity only, price as stated above is quite clear. But, for a company with a self-distribution network for the marketing of its own product, price, being the basis for the computation of VAT, is very much confusing as the amount realizable from customers includes distribution cost and profits from distribution

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activities which are beyond the purview of VAT according to the single-stage principle, still in force, almost for all domestic products.

Again, if the company pays VAT considering the value added by it as a manufacturer only, then the price declared under rule 3 (1) would be much below the amount realizable from the customer as a manufacturer-cum-wholesaler. The difference between market value and declared price will then attract VAT with retrospective effect by dint of the power bestowed upon the VAT authority by SRO no 99 of 15.06.95 as issued by the National Board of Revenue (NBR) and thus the company may end up in a legal battle. More than 8 year have passed since the introduction of VAT, but this fundamental provision of law is yet to be made transparent. However, to remove the lacuna, by this time the NBR has taken some measures, but, unfortunately, instead of addressing the issue they have created additional problems.

On 15 June 1996 the NBRT issued a general order to consider the tariff value of the imported raw material when it is higher than the C & F value for the determination of the vatiable price of a production on the grounds that a rebate has been taken on the basis of tariff value being the assessable value. For an industrial company with a fair accounting system it is almost impossible to comply with this order without the manipulation of cost accounting information. If so, the financial information of the company as a whole will be unacceptable to all users including the Income Tax Authority, the Auditor and the Registrar of the Joint Stock Companies. Again, as the product price could not be increased in view of this order, a paper increase in the cost of raw materials will only be supplemented by a reduction in margin. Thus, the order has no impact upon revenue except begin a call to furnish a price declaration with inflated information.

A change curving the way to avoid proportionate VAT by a marketing company dealing with its own brand product, produced and supplied by others on a contract or sub-contract basis, has been incorporated by the addition of Sub Sec 12 Ka to Sec 5 of the VAT Act 1991. The provision is applicable only to the company registered. It is silent about similar company being unregistered and a company which is marketing imported products supplied by overseas principals.

INPUT-OUTPUT RELATION

In pursuance of VAT order no 2 of 19 October 1991, declaration of the input-output relation of every production unit in the prescribed proforma is mandatory for every

manufacturing company. The prescribed proforma asks for complete disclosure of the product formulation. Formulation is a trade secret for which every company should pay a huge amount of royalty or spend a lot of money on research and development activities. Thus, access to formulation is highly restricted even to company personnel. The VAT authority and other office staff are not legally obliged to maintain secrecy of information as furnished by taxpayers. The issue was discussed with the VAT authority in different forums, but the agreed circular relaxing the aforesaid requirement is yet to be issued.

However, on submission of the input-output relation in the prescribed proforma, the Divisional-in-Charge asked for all supporting to the cost of raw materials as shown in the said proforma. Supporting as required by the authorities is the true copies of all documents in connection with the purchase and additional cost of the raw materials concerned brought to the place of production. Depending upon the nature, each production unit may require numerous items of raw materials. For example, the formulation of product A asked for 20 types of raw materials. The weighted average cost method is in practice for the computation of the cost of the raw material consumed. And at the time of price declaration the weighted average price of item no 1 was TK 100 per kg and accordingly the company quoted the price. If the average is the outcome of 10 purchase transactions consisting of 3 local and 7 foreign, then the volume of supporting for item no 1 should be at least 100 pages and for 20 items on average 2,000 pages. If the number of production units is 200 then the company should furnish a supporting of 400,000 pages for an initial price declaration and subsequently on average 2,000 pages for each unit at the time of every change in price. In view of the above data, it is clear to all that the furnishing of supporting to cost for an industrial company is a matter of huge undue expenditure which will simply distort the profitability of the company. On the contrary it is the Divisional-in-Charge who can postpone the delivery by rejecting the price declaration due to non-compliance with her/his order. Thus, in this way the company is on the horns of a dilemma as a result of the bureaucratic approach of the authority.

PAYMENT

In accordance with Sec 6 (2), VAT is due for payment at the time of delivery. Delivery means the release or removal of a product from the place of production by a manufacturer; it is generally sold to the customer. So VAT is an advance tax payable by a manufacturer which is realizable along with sale proceeds from the customers. In the present competitive market, avoidance of credit sale is almost impossible. In case of credit sale, a

