



RECENT  
UPDATES  
UNDER  
MAHARASHTRA  
VAT  
AND  
ALLIED LAWS

BY

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FOR WIRC OF ICAI

# INTRODUCTION

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- The upcoming presentation will cover the following with respect to amendments brought in the MVAT Laws and other Allied laws
  1. Important Amendments in Year 2015.
  2. Important Notifications & Circulars issued in 2015
  3. Important Amendments in 2016 (till date).
  4. Important Notifications & Circulars issued in 2016 (till date)

## IMPORTANT AMENDMENTS IN 2015:

The Maharashtra Tax Laws (Levy,  
Amendment and Validation) Act,  
2015

# Definition of 'Purchase Price' and 'Sale Price' (w.e.f. 01<sup>st</sup> April 2015)

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## □ **Following Explanation is added to the definition of 'Purchase Price'**

'Purchase Price' shall not include the amount of service tax levied or leviable under the Finance Act, 1994 and collected separately by the seller". [Explanation – IA to Section 2(20)]

## □ **Following Explanation is added to the definition of 'Sales Price'**

'Sale Price' shall not include the amount of service tax levied or leviable under the Finance Act, 1994 and collected separately from the purchaser". [Explanation – IA to Section 2(25)]

# Multiple filing of Revised Returns under section 20(4)(c) (w.e.f. 01st April, 2015)

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## Position PRIOR to amendment

- Returns can be revised only once under each of the following sections:
  - Section 20(4)(a) Voluntary Revision of return
  - Section 20(4)(b) Revision of return in accordance with MVAT Audit Report
  - Section 20(4)(c) Revision of Return pursuant to receipt of intimation u/s. 63 from Department.

## Position AFTER amendment

- Filing of Multiple revised returns has been allowed under section Section 20(4)(c).
- Thus, bar on filing multiple revise returns continues in case of Section 20(4)(a) and section 20(4)(b)

# Reduction of Late Fees - Section 20(6) (w.e.f. 01<sup>st</sup> May 2016)

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- Amendment is made in Section 20(6) of the MVAT Act, summary of which is produced below:

Period of Delay in Filing of Return	Late Fees Payable	
	As per Amended Provisions	As per Old Provisions
Within 30 days from due date prescribed	1,000	2,000
After 30 days from due date prescribed	5,000	5,000

# Cancellation of Transaction wise Assessment Order (w.e.f. 01st April, 2015)

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## Position PRIOR to amendment

- A dealer was eligible to file an application in Form 316 for cancellation of order only in cases of order passed under section 23(2), 23(3) and 23(4) of the MVAT Act within 30days of the service of such order
- Thus, the only remedy available to the dealer against whom transaction-wise assessment order u/s 23(5) has been passed was to file an appeal.

## Position AFTER amendment

- Now a dealer, against whom transaction-wise assessment order u/s 23(5) has been passed, would also be eligible to apply in Form 316 for the cancellation of such order within 30days of the service of such order

# Computation of interest payable under Section 30(2) in case of Annual Returns

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- In order to remove ambiguity in calculation of Interest u/s 30(2) a new proviso is added to the section. As per the said proviso, in case a dealer files an annual revised return under section 20(4)(b) or 20(4)(c), then interest shall be payable on the excess tax amount from the date as mentioned in Column No. (3) of the following table till the date of payment of such excess tax amount:

Sr. No. (1)	Registration status in the year for which Annual Revised Return is filed (2)	Interest is to be computed from (3)
a	Dealer, holding certificate of Registration for whole year <b>(TIN is valid for the entire year)</b>	1 <sup>st</sup> October of the year to which the Annual revised return relates
b	Certificate of registration granted, effective from any date upto the 30th September of the year to which the revised return relates <b>(TIN is valid from a date earlier than 30th September of the year)</b>	1 <sup>st</sup> October of the year to which the Annual revised return relates

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# Computation of interest payable under Section 30(2) in case of Annual Returns

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Sr. No. (1)	Registration status in the year for which Annual Revised Return is filed (2)	Interest is to be computed from (3)
c	Certificate of registration cancelled, effective on any date after the 30th September of the year to which the revised return relates. <b>(TIN is cancelled on a date after 30<sup>th</sup> September of the year)</b>	1 <sup>st</sup> October of the year to which the Annual revised return relates
d	Certificate of registration granted, effective from any date after the 30th September of the year to which the revised return relates. <b>(TIN is valid on a date after 30<sup>th</sup> September of the year)</b>	Effective date of cancellation of registration
e	Certificate of registration cancelled, effective on any date prior to the 30th September of the year to which the revised return relates. <b>(TIN is cancelled on a date prior to 30<sup>th</sup> September of the year)</b>	Effective date of cancellation of registration

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# Option given to Company for deciding the date of transfer of business (w.e.f. 01st April 2015)

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- Section 44(4A) has been inserted wherein an option has been given to the company to select the date of transfer of business from the following dates in case of amalgamation, merger, or demerger:
  - ▣ The date of the order of the High Court, the Tribunal or the Central Government or
  - ▣ The date on which the Registrar of Companies notifies the amalgamation, merger or demerger

# Enhancement in Threshold Limit of Professional Tax (w.e.f. 01st April, 2015)

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- Entry 1 appearing in the Schedule I appended to the Profession Tax Act has been amended w.e.f. 01<sup>st</sup> April 2015.
- The following table will be applicable w.e.f. 01st April 2015

Sr. No. (1)	Class of Persons (2)	Rate Tax (3)
1	<b>Salary and Wage Earners;</b> Such person whose monthly salaries or wages	
	(a) do not exceed Rs.7,500/-	Nil
	(b) (i) in case of a <b>male</b> , exceed Rs. 7,500 but do not exceed Rs. 10,000	Rs. 175/- per month
	(b) (ii) in case of a <b>female</b> , do not exceed Rs. 10,000	Nil
	(c) exceed rupees 10,000	Rs. 2,500/- per annum (Rs. 200/- per month except Rs. 300/- for the month of February)

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# Levy of Entry Tax on Certain Iron & Steel goods (w.e.f. 01<sup>st</sup> April 2015)

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- A new entry is added after Entry 16 in the Schedule appended to the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002 wherein Entry Tax will be leviable on following goods from outside the state:
  - "17. Goods covered by clauses (iv) and (v) of entry 55 of Schedule C, appended to the Maharashtra Value Added Tax Act, 2002.
- The following is the Schedule Entry C-55 (iv) and (v):
  - Steel bars (rounds, rods, square flats, octagons and hexagons, plain and ribbed or twisted in coil form as well as straight lengths) ;
  - Steel structurals, (angles, joints, channels, tees, sheet piling sections, Z sections or any other rolled sections)

# Clarification as per Trade Circular 6T of 2015

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- Entry tax is not leviable if the importer of goods is registered under the MVAT Act and if such goods have been brought into the State for the purpose of:
  - resale in the state, or
  - sale in the course of inter-State trade or commerce, or
  - export out of the territory of India.
  
- Set off of the tax paid under the Entry Tax Act, is also admissible under MVAT rule 52(1)(c) subject to rules.
  
- However a developer opting for the (1%) composition scheme notification, dated 9th July 2010, issued u/s 42(3A) would not be eligible to claim set off being barred by the condition (3) of the said notification.
  
- Entry Tax Applicability in case of Builders and other Works Contractor?

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## Important Notifications & Circulars issued in the year 2015

# Dealer Information System

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- Maharashtra Sales Tax Department has introduced a new facility for all the registered known as 'Dealers Information System'.
- You can access it after logging into your account at the Maharashtra Sales Tax Department's Website.
- Following is the comprehensive list of Services offered through this facility:
  - Commodity Details
  - Partner Details
  - Bank Details
  - ITC Report
  - ITC Excel Report

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# Rule 58 amendment related to Service Tax (w.e.f. 01st April, 2015)

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- The Government of Maharashtra issued **Notification No. VAT 1515/CR 54/Taxation-1 dated 20-5-2015** whereby Rule 58(1)(a) was amended.
  
- Prior to amendment the said clause was as follows:
  - ▣ labour and service charges for the execution of the works.
  
- Post Amendment the clause is as follows:
  - ▣ labour, service tax collected separately and service charges for the execution of the works.



# Rule 58 amendment related to Service Tax (w.e.f. 01st April, 2015)

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- Effect of the above amendments vis a vis different methods for Discharging VAT Liability:
  - Rule 58 Actual Deduction Method
  - Rule 58 Lumpsum Deduction Method
  - Composition Scheme.

# Change in rate of “Schedule B” goods to 1.20% (w.e.f. 01<sup>st</sup> October, 2015)

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- The Government of Maharashtra brought amendment in **Schedule B** vide **Notification No. VAT. 1515/C.R. 128A/Taxation – 1** dated **30<sup>th</sup> September, 2015**.
- Schedule B covers goods in the nature of Precious metals, Semi Precious Stones, diamonds or pearls as well as imitation jewellery.
- The rate of vat on goods covered under Schedule B has been enhanced from 1.00% to 1.20%.
- The Rate of VAT for the FY 2015-16:
  - April to September: 1.00%
  - October to March: 1.20%

# Change in Rate of Interest - Rule 88 (w.e.f. 01<sup>st</sup> Dec, 2015)

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- The Government of Maharashtra brought amendment in **Rule 88** vide **Notification No. VAT 1515/CR-81/Taxation-1** dated **5<sup>th</sup> November, 2015**.
- Comparison of erstwhile and amended provisions is as follows:

Sr. No.	Time Period of Delay	Rate of Interest under Erstwhile Rule 88	Rate of Interest under Amended Rule 88
1.	<b>Upto</b> 1 <sup>st</sup> Month or part thereof	1.25% of Tax	1.25% of Tax
2.	For Next 2 <sup>nd</sup> & 3 <sup>rd</sup> month or part thereof		<b>1.50%</b> of Tax
3.	Beyond 3 <sup>rd</sup> month or part thereof		<b>2.00%</b> of Tax

# New Rule 52B: Set off on purchase of specified goods (w.e.f. 01<sup>st</sup> January, 2016)

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- Notification No. VAT.1515/CR-158/Taxation-1 dt 30<sup>th</sup> December 2015
- Applicable only to the following entries of Schedule D:

Schedule D	
Entry No.	Name of Commodity
13	Aerated and Carbonated non-alcoholic beverages whether or not containing sugar or other sweetening matter or flavour or any other additives.
14	Cigar and cigarettes.

- Dealer entitlement to claim set-off is as follows:

On Sale of the said goods	Set-off can be claimed to the Extent of :
In case of <b>Interstate</b> Sale of Goods	The Amount of Tax Paid/Payable on Interstate resale under CST Act, 1956
In case of <b>Local</b> Sales of Goods	The Amount of Tax Paid on Purchase of said goods

## IMPORTANT AMENDMENTS MADE IN 2016:

The Maharashtra Tax Laws  
(Levy, Amendment and  
Validation) Act, 2016

# Amendment in Profession Tax Act (w.e.f. 01<sup>st</sup> April 2016)

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- A new sub-section (3) inserted in Section 3, which provides that un-enrolled person shall not be liable to pay tax for any periods prior to 1<sup>st</sup> April 2013, if:
  - he makes an application for enrolment from 01<sup>st</sup> April 2016 to 30<sup>th</sup> September 2016, or
  - his application for enrolment is pending on 01<sup>st</sup> April 2016.
  
- Trade Circular 12T of 2016

# Exemption to Sizing and Warping of Yarn (w.e.f. 01<sup>st</sup> April, 2016)

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- New Section 8(3D) Inserted to provide for exemption from payment of tax for transfer of property in goods involved in the sizing and warping of yarn.
- Notification No. VAT-1516/C.R. 62/Taxation-1 dt. 29<sup>th</sup> April, 2016
  - Full exemption in case of transfer of property in goods, involved in the sizing and warping of yarn provided:
    - Goods are consumed or used in sizing and warping of yarn.
    - Set off admissible is as follows:

Type of Goods	Set off admissible
Goods consumed or used, consumables & packing materials	CST Rate
Capital assets used exclusively	As per rule 52

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# Registration Application Rejection & Restoration: New Proviso to sec 16(3) (w.e.f. 10<sup>th</sup> June 2016)

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- Application for Registration will be rejected if:
  - ▣ the same is not complete
  - ▣ the prescribed documents have not been uploaded
  - ▣ documents are not consistent with the information provided or the same is not legible, or
  - ▣ the prescribed conditions are not fulfilled
  
- Application would be automatically restored if compliances made within 30 days from the date of intimation of rejection.
  
- Vide Notification No. VAT.1516/C.R. 83/Taxation-1 dt. 09<sup>th</sup> June 2016 – proviso made applicable w.e.f. 10<sup>th</sup> June 16.



# Amendment in provisions wrt Suo-moto cancelation of Registration by Department (w.e.f. 10<sup>th</sup> June 2016)

25

- Registration Number will be cancelled in the following situations:
  - ▣ No business commenced within 6 months from the date of registration in case of Voluntary Registration.
  - ▣ Registration obtained by fraud [Newly **added**].
  - ▣ Registration obtained by misrepresentation of facts [Newly **added**].

After providing reasonable opportunity.

# Amendments wrt filing of Revised Returns under section 20(4)(a) (w.e.f. 26<sup>th</sup> April, 2016)

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## Position PRIOR to amendment

- ❑ **Only 1 Time** Revise Returns for following:
  - ❑ Section 20(4)(a): Voluntary Revision of return before the expiry of a period of **ten months from the end of the year** to which the return;
  - ❑ Section 20(4)(b): Revision of return in accordance with MVAT Audit Report;
- ❑ **Multiple** revised returns allowed:
  - ❑ Section 20(4)(c): Revision of Return pursuant to receipt of intimation u/s. 63 from Department.

## Position AFTER amendment

- ❑ Multiple revised returns allowed under section **Section 20(4)(a)**.
- ❑ **Time limit** for filing such revise returns is made at par with the due date for VAT Audit Report.

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# Other Amendments wrt filing of Returns

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- **Periodicity for Filing of Return (w.e.f. 01<sup>st</sup> April 2016):**
  - **Monthly**
    - **No change in tax liability and refund entitlement provisions.**
  - **Quarterly**
  - ~~**Six Monthly**~~
  
- **Newly Registered Dealer – Monthly Periodicity**
  
- **Dealer who hold Certificate of Entitlement under the PSI – Monthly Periodicity**
  
- **Retailers who has opted for Retailer Composition Scheme – Quarterly.**

# Section 23(2A): Summary Assessment

- Conditions:
  - Applicable from FY 2012-13 onwards.
  - All returns filed within the period of filing revise return u/s. 20(4)(a).
  - Taxes paid within the said period.
  
- Commissioner may assess on the basis of returns filed if he is satisfied.
  
- Assessment Order is to be made within 4 years from the end of the year.
  
- If no such Assessment Order is made, returns shall be deemed to have been accepted.

# Section 23(5A): Closure of Assessment Proceedings

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## □ **Conditions:**

- Applicable for proceeding u/s. 23(2), 23(3), 23(4) and 23(5).
  - Commissioner may send his observation by an **Intimation**.
  - Such communication shall be made **before 6 months** from the date of expiry of passing assessment order.
  - Dealer **agrees** and **file return / revise return**
  - Dealer **Pays full** tax and applicable interest.
- 
- **Confirmation order** shall be passed and the assessment proceedings shall be closed.
- 
- The above is also **applicable to pending proceedings** as on 01<sup>st</sup> April 2016.

# Introduction of the Concept of “**Fair Market Price**”

## New Section 28A Inserted (w.e.f. 01<sup>st</sup> April 2011)

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- Section 28A comes into force **retrospectively** from **01<sup>st</sup> April 2011**.
- Section 28A empowers the State Government to **PRESCRIBE** fair market price for commodity for a **PRESCRIBED** class of dealers.
- Such Power will be **exercised if** during any proceeding the authority is of the opinion that sales price is below the prescribed fair market price.
- Such power is exercisable in **all the proceedings** under the Act i.e. **assessment, rectification, review, appeal etc.**

# Amendments to VAT TDS provisions: Section 31

31

## □ Credit for VAT TDS:

### □ Earlier Provisions:

- Principal Contractor **may** claim credit in the period in which the certificate for payment is furnished.

### □ Amended Provisions:

- Principal Contractor **shall** claim credit in the period in which the certificate for payment is furnished
- Transfer such credit to the Sub contractor:
  - Such Sub contractor **may** claim credit **in the period in which the principal contractor has transferred the credit or in any subsequent period.**

# Sales Tax Deduction Account Number

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## □ **Earlier Provisions:**

- There were provisions for obtaining Sales Tax Deduction Account Number however the said provisions was deleted wef 20<sup>th</sup> June 2006.

## □ **Amended Provisions:**

- Such requirement is re-introduced.
- However such requirement is not applicable to an employer who is registered under the Act
- Penalty for failure to apply for registration.



# Filing of VAT TDS Returns

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- **Filing of **Revise** TDS Return Return:**
  - **Earlier Provisions:**
    - There were no such provisions.
  - **Amended Provisions:**
    - Revise Return filing is permitted.
    - Time limit – 9 months from the end of the year.
  
- **Penalty for delay in filing of VAT TDS Return:**
  - **Earlier Provisions:**
    - There were no such provisions.
  - **Amended Provisions:**
    - Penalty of Rs. 5,000/-

## Important Notifications & Circulars issued in the year 2016

# Amendment in Rule 52B: Set off on purchase of specified goods (w.e.f. 01<sup>st</sup> April, 2016)

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- Earlier this rule was applicable only to the following goods:
  - ▣ Schedule Entry D – 13.
  - ▣ Schedule Entry D – 14.
  
- W.e.f. 01<sup>st</sup> April 2016, the above rule shall also apply to ***“mobile phone or cellular handset i.e. telephones for cellular network or for other wireless network.”***

# Amendment in Rule 53 and Rule 54 (w.e.f. 01<sup>st</sup> April, 2016)

36

- Rule 54(a) Amended to remove disallowances of set off on purchase of passenger vehicles if the dealer is engaged in the business of transferring the right to use.
  
- Rule 53 Amended as follows:
  - New Rule 53(11) inserted
  - Set off allowed for above cases however the said set off is restricted to the extent of tax payable on such transfer of right to use.
  - Further the set off determined as per above shall be claimed in the period in which such right to use is transferred.

# Amendment in Rule 17: Submission of Returns

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- **Rule 17** Amended to provide the following:
  - Return form shall be made available on the website in electronic form.
  - Registered dealer shall submit returns electronically as per the procedure made available on the website.
- **New Rule 2(1)(p)** inserted as follows:
  - “website” means the website of the Department of Sales Tax i.e. [www.mahavat.gov.in](http://www.mahavat.gov.in).”

# Amendments to VAT TDS provisions Rule 40

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- **VAT TDS Return:**
  - Earlier: Annual Return within 3 months
  - Amended Provisions: Monthly Return within 21 days from the end of the month in which tax is so remitted.
  
- **Transfer of credit of VAT TDS:**
  - Earlier: No such provisions
  - Amended Provisions:
    - Transfer now possible.
    - The principal contractor shall accordingly:
      - File e- return in Form 424A
      - Issue Certificate in Form 402A
      - Maintain separate account in the Form 404A.

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# Amendments made to “Schedule A” and “Schedule C” of MVAT Act (wef 01<sup>st</sup> April, 2016)

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- The Maharashtra Sales Tax Department issued a Notification No. VAT. 1516/ C.R. 31/Taxation-1 dated 30<sup>th</sup> March, 2016.
- Accordingly it brought amendment in Schedule A and Schedule C of the Rate Schedule of the Maharashtra Value Added Tax Act, 2002 wef **1<sup>st</sup> April, 2016.**
- **Rate of VAT increased from 5% to 5.5% on all goods covered by Schedule C except few.**

# Levy of Entry Tax on Slabs of Marble and Granite.

40

- A new entry is added after Entry 15(1) in the Schedule appended to the Maharashtra Tax on Entry of Goods into Local Areas Act, 2002.
- Entry Tax is now be leviable on **Slabs of Marble and Granite.**
- The said amendment has been made vide Notification No. ENG. 1516/C.R. 56/Taxation. Dt 01<sup>st</sup> April 2016



# Amendment in Composition Scheme (w.e.f. 01<sup>st</sup> April 2016)

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Class of Dealer	Old Provision		New Provision	
Restaurants , eating house, refreshment room, boarding establishment, factory canteen clubs, hotels and caterers	Registered Dealer	5%	Registered dealer with turnover NOT exceeding 3 crores in previous year	5%
	Unregistered Dealer	10%	Other Registered dealer	8%
			Unregistered Dealer	10%

# Wednesday – Tax Payers Day

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- Circular 17T of 2016:
  - ▣ Emphasis on being Tax payer friendly
  - ▣ Every Wednesday (2 pm to 5 pm) – Tax Payers Day
  - ▣ Zonal / Divisional / Unit head will meet the tax payers / other stakeholders:
    - in their chambers
    - Without any prior appointment
    - To address their grievances.
  - ▣ Service cell meeting of all dealers and their representatives will be held on first Saturday of third month of every quarter at all the divisional levels.

thank  
YOU

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