DECLARED GOODS UNDER CST ACT,1956

CONSTITUTIONAL VALIDITY

Article 286(3)(a) of Constitution of India authorizes Parliament to declare some goods as of 'special importance' and to impose restrictions on power of States, in regard to levy rates and other incidence of tax on such goods.

DEFINITION OF DECLARED GOODS:-

- A number of goods including cereals, certain cotton fabrics, crude oil, iron and steel, etc are declared to be of special importance in Inter State trade or commerce by Sec.14 of the Central Sales Tax Act,1956. Collectively these goods are called Declared Goods.
- Section 15 of the CST Act, 1956 imposes certain restrictions on the powers of the states to levy tax on declared goods.

SECTION 14 OF CST ACT,1956 GIVES LIST OF 'GOODS OF SPECIAL IMPORTANCE' CALLED 'DECLAREED GOODS'.IMPORTANT AMONG THEM ARE AS UNDER:-

(i) Cereals <u>that is to say</u> paddy, rice, wheat, bajra, jowar or milo, barley etc.

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- (ia) Coal and coke in all forms excluding charcoal.
- (ii) Cotton, that is to say, all kinds of cotton in its un-manufactured state
- (iia) Cotton fabrics
- (iib) Cotton yarn.
- (iic) Crude Oil, <u>that is to say</u>, crude petroleum oils and crude oils obtained from bituminous minerals

- (iid) Aviation Turbine Fuel sold to an aircraft with a maximum take-off mass less than 40,000/- kg.
- (iii) Hides and skins, whether in raw or dressed state;
- (iv) Iron and steel i.e. pig iron, cast iron, steel semis, skelp bars, steel bars, steel structurals, sheets, hoops, plates, discs, rings, tool, alloy, steel tubes, tin plates, steel wheels, tyres, axles wire rods and tools etc.,

- defectives, rejects, cuttings or end pieces of any of the above categories;
- (v) jute, <u>that is to say</u>, the fibre extracted from plants whether baled or otherwise
- (va) Liquefied Petroleum Gas.
- (vi) Oil Seeds *that is to say*. groundnut, til, cotton seed, linseed, castor, coconut, sunflower, mahua, kokum, sal, etc.

- (via)Pulses that is to say gram, tur, moong, masur, urad etc.
- (vii) Man-made fabrics e.g. fabrics of man- made filament yarn i.e. artificial textile materials, polyester staple fibre, tyre cord fabric, impregnated textile fabrics, etc.

(viii) Sugar Khandsari Sugar and Palmyra Sugar

(x) Woven fabrics of wool.

Significance of the words "that is to say"

 The Honourable Supreme Court held in the case of State of T. N. vs. Pyare Lal Malhotra (1976) 37STC 319(SC) The expression "that is to say" is employed to make clear and fix the meaning of what is to be explained or defined. Such words are not used, as a rule, to amplify a meaning while removing a possible doubt for which purpose the word "includes" is generally employed. Thus the definition given in the section 14 is exclusive not inclusive.

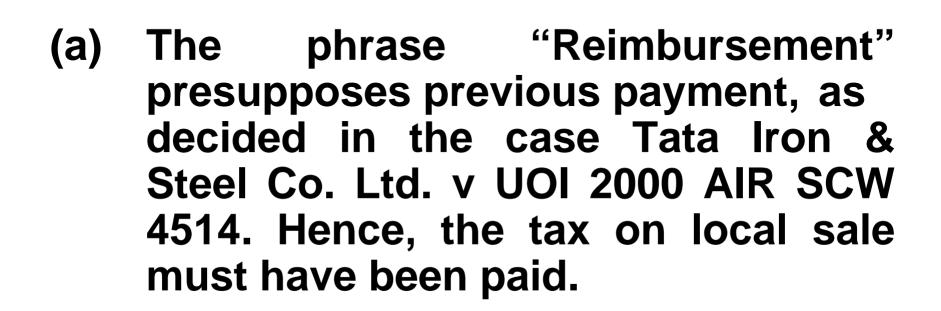
RESTRICTIONS ON STATE TAXATION ON DECLARED GOODS:-

I) TAX ON DECLARED GOODS NOT TO EXCEED 4%:-

- As per Section 15(a) of the CST Act,1956 tax on declared goods within a State cannot exceed 4%.
- As per provision in Section 15(1) upto 11-05-2002, tax on declared goods could be imposed only at one stage. Now, this restriction has been removed w.e.f 11-05-2002, because such restrictions was against principles of VAT.

II) REIMBURSEMENT OF LOCAL TAX IF DECLARED GOODS SOLD INTER-STATE:-

As per Section 15(b) if any declared goods, on which State Sales tax is paid and the same is sold in Inter-State sale; then the tax levied on sale within the State should be reimbursed to the person making such Inter-State sale. However:-



- (b) Payment of CST is condition precedent in order to claim reimbursement e.g. If Inter-State sale of the goods are exempt from tax, refund of tax paid on Intra-State sales is not available.
- Rallis India Ltd. Vs. State of A.P. (1980)45 STC 456 (SC)



(c) The Inter-State sale of goods must be in the same form.

The Supreme Court in the case of Telangana's Steel Industries State of A.P. (1994) 93 STC 187 (SC) observed, "As soon as separate commercial commodities emerge or come into existence, they become separately taxable goods for the purpose of sales tax.

III) GOODS MUST BE SOLD IN SAME FORM TO OBTAIN REIMBURSEMENT:-

- Declared goods purchased must be sold in same form. Identity of goods must not be lost. eg.
 - 1. Mung, chana and urad converted into dal is same commodity.
 - 2. Oil seeds and oil extracted from these seeds are different commodities.

Thus, if goods sold after processing are different commodity, reimbursement of local sales tax is not available.

SPECIAL PROVISIONS ABOUT PADDY AND PULSES:-

I) SET OFF OF TAX ON PADDY:-

As per Section 15(c) of the CST Act,1956 if paddy is taxed within State and rice (which is procured from paddy) is also taxed, tax paid on paddy should be set off out of tax leviable on sale of rice.

Eg:- If tax of Rs.2500 is paid on paddy and tax payable on rice is 4000, then tax of only Rs.1500 will be paid on rice.

III) PURCHASE OF PADDY AND EXPORT OF RICE:-

 As per Section 15(ca) of the CST Act,1956 if rice procured from the paddy is exported out of india then, the paddy and rice will be treated as 'same goods' for purpose of section 5(3) of CST Act.

Thus, paddy can be purchased without payment of sales tax within the state, if rice procured from such paddy is exported out of India.

CASE REFERENCES:-

1. <u>VEERUMAL MONGA V. STATE OF HARYANA</u> (2001) 123 STC 158 (P&H HC DB):--

In the said case Rice Miller purchased paddy and sold rice to the exporter. It was held that in such case, only sale of rice to exporter is penultimate sale and is exempt. However, purchase of paddy by millers will not be exempt.

2. MONGA RICE MILL V. STATE OF HARYANA 2002(125) STC 304 (P&H HC DB):--

With reference to the given case, to get benefit of this provision, the exporter should himself procure paddy and then get job work done to convert into rice. He should not purchase rice directly from miller.

II) NO TAX ON CONVERSION OF PULSES:-

As per Section 15(d) of the CST Act,1956 each of the pulses whether whole or separated and whether with or without husk, shall be treated as a single commodity for purpose of levy of tax under State tax law.

Summarizing, if tax is paid on raw pulses, no further tax is payable after it is processed.

SALES TAX RATES APPLICABLE FOR SALE OF DECLARED GOODS:-

- State Governments cannot charge sales tax for sale within the State at the rate which is more than 4%.
- As per Section 8(2) of the CST Act,1956, if declared goods are sold to unregistered dealer, the sales tax rate is equal to Vat rate as applicable within the State.

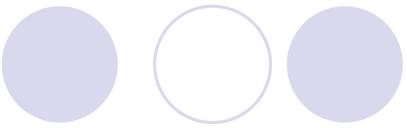
Rates of tax	Rates of Tax on Central sales									
Applicable in	Declared Goods									
	Again	st Form	C/D	Without Forms						
	Upto	From	From	Upto	From	From				
	31.3.0	1.4.07	1.6.0	31.3.0	1.4.07	1.6.08				
	7		8	7						
0	0	0	0	0	0	0				
1	1	1	1	2	1	1				
4	4	3	2	8	4	4				
5	Not Applicable; since local rate in respect of declared goods specified u/s 14 cannot									
12.5	exceed 4%									
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• IMPACT OF REDUCTION IN INPUT TAX CREDIT UNDER RULE 7 OF THE DVAT RULES

	Goods	Rate	l	Reduction	1	Cost to Dealer			
	Specified in	of Tox	(% of Tax Credit)			(% of Purchase Price)			
		Tax (%)	Up to 13.5.07	From 14.5.07	From 01.6.08	Up to 13.5.07	From 14.5.07	From 01.6.08	
а	Schedule II	1	100	100	100	1	1	1	
b	Schedule III								
	Declared Goods	4	100	75	50	4	3	2	
	Other than Declared Goods								
	-Upto 12.1.2010	4	100	75	50	4	3	2	
	-W.e.f. 13.1.2010	5	NA	NA	40	NA	NA	2	
С	Schedule IV	20	20	15	10	4	3	2	
d	Any other goods- Rate stipulated in Sec. 4(1)(e)	12.5	32	24	16	4	3	2	





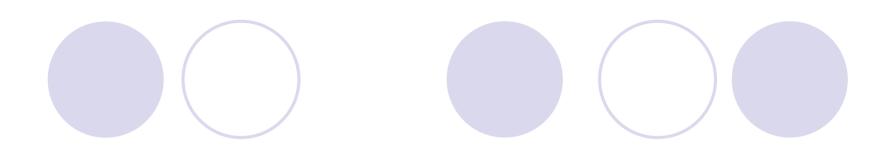
IMPORTANT CASE LAWS INDICATING WHETHER OR NOT THE GOODS IS A DELARED GOODS



In the case of Rajasthan Roller Flour Mills vs. State of Rajasthan (1993) 91STC 408(SC), it was held that flour, maida and suji are different from wheat and hence are not declared goods.

COAL ASH/ COAL SLURRY

• In Arif Transport v. CTO (1999) 116 STC 207 (karn HC) coal ash was held to be including Coal slurry and sludge is held to be a form of Coal and held as declared goods. "PETROLEUM COKE" COMES WITHIN THE SCOPE OF DECLARED GOODS AS DECIDED IN THE CASE, INDIA CARBON V. SUPERINDENT OF TAXES [1971] 28 STC 603 (SC) AS ALSO "COAL DUST"— DISTRICT COOP DEV. FEDERATION V. CST [1970] 26 STC 46.



• LIGNITE AND LECO ARE ALSO FORMS OF COAL – DY. CCT V. KUPPASWAMI CHETTY[1979] 45 STC 308

Cotton

- 'Absorbent cotton wool' sold as surgical cotton is not covered under cotton and hence not a declared goods.
- CST v. Fair Deal Corporation [1962]
 13 STC 750.

State of Tamilnadu v. R.V. Krishniah-(1994) 92 STC 262 (Mad HC DB), it was held that 'sewing thread' and 'cotton yarn' are same commodities and hence is liable only to single point tax. Therefore, Sewing thread is declared goods. Central Government, vide its letter dated 28th Feb, 1977 had clarified that 'Cast Iron' Includes Cast Iron Castings'.

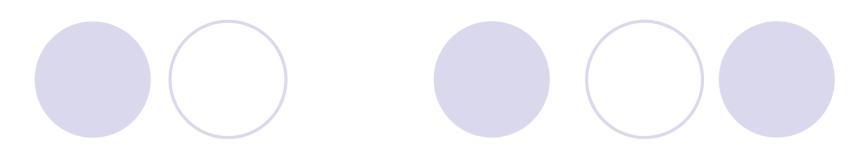
In view of this entry and clarification of Central Government, manufacture of cast iron castings from pig iron was not treated as 'Manufacture' since both fall under the same heading and no tax was levied therefore CI pipes can be treated as declared goods.

In case Vasantham Foundry v. UOI-(1995)STC 87 (SC)-3 member bench, it was held that cast iron castings in its basic rough form is cast iron and hence is 'declared goods'. Gujarat Steel Tubes Ltd. v. State of Kerala 1989 74 STC 176 (SC) in the said case it was held that GI Pipes are declared goods. Steel tubes are galvanised to make the pipe corrosion resistant. Since galvanising does not change the structure and function, making GI Pipe from steel tubes does not bring a new commodity into existence and hence GI Pipes are declared goods.

State of Gujarat v. Shah Veljibhai Motichand (1969) 23 STC 288 (Gui HC)- It was held in the said case that iron sheets even after corrugation are 'iron and steel'. Therefore, corrugated iron sheets are declared goods.

In Jindal (India) Ltd. v. Dv CCT (2000) 117 STC 426 (WBTT), it was held that both HR (Hot rolled) Steel strips and CR (Cold rolled) steel strips are one for purposes of 'declared goods' under CST Act, 1956.

Ballabdas Paddar vs. CST (1988) 68STC 331(MP). In the mentioned case assessee purchased the old railway coaches after payment of tax. It dismantled the coaches and sold the iron scrap. It was held that it is not a different commodity, as the assessee purchased the coaches as scrap. i.e. Intention of the buyer while purchasing the goods is also important.



Rewa Alloys (P) Ltd.JA270/PACST/Misc.90

It was held in above case RESISTANCE WIRE is a iron and steel as per sec. 14 of CST Act, 1956.

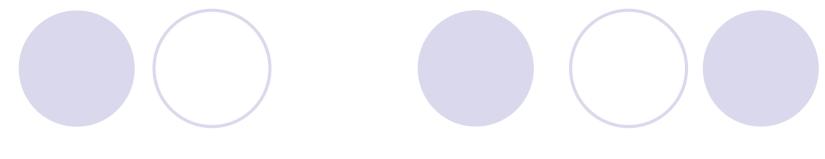
SCREW DIVERS, SAWS AND PICKAXES ARE DECLARED GOODS

as they are tools as held in CST v. National Lock Stores (1996)101 STC 83 (MP HC DB)

RIM OF WHEEL IS DECLARED GOODS

 Rim of Cycle wheel has been held as declared goods as decided in the case Dewan Enterprises v. CST AIR 1996 SC 2029.

 Ferro Silicon is covered under the list of declared goods as decided in the case JA 227/PACST/88-89 vs. V.B.C FERRO ALLOYS LTD. [28 DSTC J-223] DT. 14.12.1988



 Steel Stampings are covered under "declared goods" as decided in the case JA 283/PACST/MISC/90 vs. Reliance Industries [30DSTC J-12] DT. 17.08.1990 'AXLE' is a declared goods under CST Act 1956 as decided in the case M/s. Jain Engineering Agencies (Delhi) 128A/CDVAT/2006, Date 08.08.2006

183/CDVAT/2007/165, Date 02.11.2007 M/s. Bar Sales Corporation

• 'Piston Rings, held to be covered under entry of Section 14(iv)(viii) of the CST Act, 1956 and therefore taxable as declared goods.

V) Devi Dass Gopal Krishnan vs. State of Punjab (1967) 20STC 430(SC)

In the said case, it was held that when oil produced out of oil-seeds, the process certainly transforms raw material into different article for use, and therefore, oil-seeds can be said to be used in the manufacture of goods. HENCE OIL EXTRACTED FROM OIL SEEDS IS NOT A DECLARED GOODS



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