

**AN  
OVERVIEW OF  
CENTRAL SALES TAX ACT**

▶ **DEFINITIONS**

Sale

Goods

Turnover

Work Contract

▶ **JUDGEMENTS**

▶ **EXAMPLES**

▶ **INTER STATE SALES**

▶ **DECLARATION FORMS**

▶ **DECLARED GOODS**

# SALE

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graph TD; SALE --> LOCAL_SALE[LOCAL SALE]; SALE --> INTERSTATE_SALE[INTERSTATE SALE]; LOCAL_SALE --> LOCAL_SALE_TAX[Local sale is covered under LOCAL SALE TAX ACT]; INTERSTATE_SALE --> INTERSTATE_SALE_TAX[Inter state Sale is covered under CENTRAL SALES TAX ACT];
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**LOCAL SALE**

**INTERSTATE  
SALE**

Local sale is  
covered under  
**LOCAL SALE TAX  
ACT**

Inter state Sale is  
covered under  
**CENTRAL SALES  
TAX ACT**

## Sale Section 2(g) of CST Act 1956

“Sale” with the grammatical variations and cognate and expressions, means any transfer of property in goods by one person to another for cash or deferred payment or for cash or deferred payment or for any other valuable good consideration, and includes, -

- (i) a transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payments or other valuable considerations;
- (ii) a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
- (iii) a delivery of goods on hire-purchase or any system of payment by installments;
- (iv) a transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

(v) a supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration;

(vi) A supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not intoxicating), where such supply or service, is for cash, deferred payment or other valuable consideration,

**but does not include a mortgage or hypothecation of or a charge or pledge on goods.**

# GOODS

## As per Section 2(d) of Central Sales Tax Act,1956

“Goods” means every kind of movable property .  
It may be legal or illegal.

### It includes

- All materials, articles , commodities and all other kinds of movable property , but does not include newspapers, actionable claims , stocks, shares and securities.

## Items excluded from the definition of goods

- **ACTIONABLE CLAIMS**

As Per **Section 3** of Transfer of Property Act

“ACTIONABLE CLAIMS” means a claim to any debt , other than debt secured by a mortgage of immovable property or by hypothecation or pledge of movable property

- SECURITIES

- SHARES

- STOCKS

- New newspapers are outside the purview of the definition of “goods” but old newspapers are covered in goods.

*(Case: H. ANRAJ VS. GOVT. OF T.N.(1986) 61 STC 165 (SC))*

- CURRENCY/MONEY

Whenever money is sold/ brought , it will be in the VAT Net , unless specifically exempted in the Act.

Likewise , sale of non-judicial papers , stamps etc. by vendors will also be subject to tax under this Act if the Local VAT Act permits to do so.



# Immovable Goods

## Immovable Goods

Land and benefits arising out of land, and things attached to earth or permanently fastened.”

Immovable Goods are out of the purview of the definition of goods.

## Case:

### CST vs. Bombay Sound Service (1999) 112 STC 290 (Bom)

The real criteria to examine whether the property is movable or immovable is whether the property which is embedded or attached to earth can be used without so attaching and attachment is only for the proper and smooth functioning of a particular movable property or if it is for the beneficial user of the immovable property, then it is a movable property otherwise an immovable property.



## LISTS OF IMMOVABLE GOODS

- **Oil tanks**

*[ Madras Petrochem Ltd. Vs CTO (1996) 103 STC 54 (TNTST) ]*

- **Powerhouse**

*[ Hemendra Lal Roy vs. Indo- Swiss Trading Co. Ltd. AIR (1955) Pat 375]*

- **Printing machinery**

*[ Carborandum universal ltd Vs CIT (1984) 146 ITR I (Mad) ]*

- **Hydraulic Press**

*[ Dy. CST vs. Bobby Rubber Industries(1998) 108 STC 410 (Ker) ]*

## Case of Plant & Machinery as an immovable property (CASE: THE GROWTH LEASING & FINANCE LTD. VS. STATE OF GUJARAT (1992) 85 STC 25 (GUJ))

The mode of annexation of plant & machinery to land & building determines that whether it is a movable property or not.

As Per the above case, the heavy machinery which is in common use after being fastened to earth and unless, such fastening is there, it cannot be put to a rational use, hence it is an immovable property.

## Case of advertisement hoarding

The applicant acquired land on lease , and then erected structures thereon , fixed hoardings thereto and let for advertising upon the payment of rent. It was held that the hoardings had to be treated as "goods" and the letting of such hoardings had to be deemed to be sale.

Unless the hoarding is permanently fastened to the said structure , it could not be claimed to be immovable property

[CASE: SELVEL ADVERTISING LTD. VS. CTO (1993) 89 STC 1 (WBTT) ]

# Following items are considered as goods for sales tax .

## ▶ COPYRIGHT

## ▶ CURRENCY/MONEY

Whenever money is sold/ brought , it will be in the VAT Net , unless specifically exempted in the Act.

Likewise , sale of non-judicial papers , stamps etc. by some vendors will also be subject to tax under this Act.

DEPB/ Replenishment License

## ▶ LOTTERY TICKETS

(Sunrise Associates vs. Govt. Of NCT Of Delhi) opined that sale of tickets involved sale of goods , but in the form of an actionable claim and since actionable claims have not been considered as goods within the meaning of sales tax act , it is not taxable.

## ▶ LIVESTOCK

The court opined that livestock is a movable property and the expression “goods” takes within its ambit “livestock” . Even one day old chick is also livestock.

Other examples are drawings and designs , electricity , computer software, old newspapers

## ▶ **DEPB**

DEPB, like REP license, has its own intrinsic value. DEPB credit is clearly “goods” within the meaning of sales tax.

*YASHA OVERSEAS vs CST(2008) 17 VST 182 (SC)*

- ▶ Film- Incomplete
- ▶ TV Signals
- ▶ Steam
- ▶ Old Newspaper
- ▶ REP Licenses
- ▶ Drawings & designs
- ▶ Electricity
- ▶ Trade Marks

# SIM CARD

It was held by the Kerala high court that sim cards are goods. Moreover, free transferability is not necessarily indicative of a right to movable property not being a sale of goods.

The Supreme Court in BSNL's case *(BHARAT SANCHAR NIGAM LIMITED VS. U.O.I. (2006) 145 STC 91 (SC)* opined that:-

If the SIM card is not sold by the assessee to the subscribers but is merely part of the services rendered by the service providers, then the SIM Card cannot be charged separately to sales tax. It would depend ultimately upon the intention of parties.

However, we emphasize that if the sale of a SIM card is merely incidental to the service being provided and only facilitates the identification of the subscribers, it would not be assessable to sales tax

➤Q. Whether Computer Software can be considered as Goods?

**Ans. YES,**

As per the judgment of The ANDHRA PRADESH HIGH COURT in the case of TATA CONSULTANCY SERVICES vs. STATE OF ANDHRA PRADESH (1997) 105 STC 421 (AP), it is said that computer softwares which are contained in floppies or discs (Branded Softwares) are movable property or articles or identifiable commodity and are **considered as goods.**



## Gross Turnover

It shall include turnover of all sales i.e. inter-State sales, export sales outside the state , branch transfers , transfer of goods to the agent outside the state , turnover in respect of job work and works contract.

## Method Of Accounting

“Turnover” used in relation to any dealer liable to tax under this Act means the aggregate of the sale price received and receivable by him .  
Section 2(j) of the CST Act implies that only mercantile system of keeping accounts can be adopted as the basis for such determination .



# Turnover

## Section 8A(1)(a) of the Central Sales Tax Act

In determining the turnover of dealer for the purposes of this Act, the following **deductions shall be made from the aggregate of the sale prices, namely:-**

the amount arrived at by applying the following formula-

$$\frac{\text{Rate of tax x aggregate of sale prices}}{100 \text{ plus rate of tax}}$$

# Whether Freight, delivery charges form part of turnover?

**Ans.** Freight, delivery charges or installation shall not form part of gross turnover if these are separately charged and does not form part of total sale price. Freight delivery charges from factory to depot, as not incidental to sale, cannot be allowed as deduction.

**CASE:-**

***DYER MEAKIN BREWERIES LTD. VS. STATE OF KERALA(1970) 26 STC 248 (SC)***

## Example:-

Dealer charges Rs.2000/- inclusive of Central Sales Tax for outstation sale

(1)	(2)
<b>Applicable CST Rate -2%</b>	<b>Applicable CST Rate -20%</b>
Tax= $\frac{2 (x) 2000}{100+2} = 39.22$	Tax= $\frac{20 (x) 2000}{100+20} = 333.33$
Turnover = 2000 (-) 39.22 = 1960.78	Turnover = 2000 (-) 333.33 = 1666.67

# GOODS RETURN/REJECTION

- ▶ Section 8(1) (b) of CST Act, 1956 provides that the dealer can deduct the sale price of goods returned within the period of six months from the date of sale from his current Gross turnover. Sales return in the current year against the sales made in the immediately preceding financial year can also be deducted from the current year turnover.

*( AARSON INSULATORS vs CST18 DST CT-88(Del Tribunal)*

- ▶ No Time Limit in case of rejection of goods i.e The sale price of goods rejected can be deducted from the Gross turnover

*(METAL ALLOYS CO. vs CTO (1977)39 STC 404 (CAL.)*

# Inter State Sale–Sec(3)

## When is a sale or purchase of goods said to take place in the course of inter- State trade or commerce

A sale or purchase of goods shall be deemed to take place in the course of inter-State trade or commerce if the sale or purchase-

- (a) occasions the movement of goods from one State to another; or
- (b) is effected by a transfer of documents of title to the goods during their *movement* from one State to another.

**Explanation 1-** Where goods are delivered to a carrier or other bailee for transmissions, the movement of the goods shall, for the purposes of clause (b), be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such carrier or bailee.

## Explanation 2-

Where the movement of goods commences and terminates in the same state it shall not be deemed to be movement of goods from one state to another by reason merely of the fact that in the course of such movement the goods pass through the territory of any other State.

# Example

In case of Depot Sales

Head Office - Karnataka

Depot Office - Delhi

If order is taken from customer in Delhi and goods are transferred to Delhi first and then sales is made Inter State Sale

If first goods are transferred to Delhi Depot and then sale is made within Delhi and hence **INTRA STATE SALE**.

**No CST** is applicable. But **FORM F** should be given by the Delhi Depot to head office.

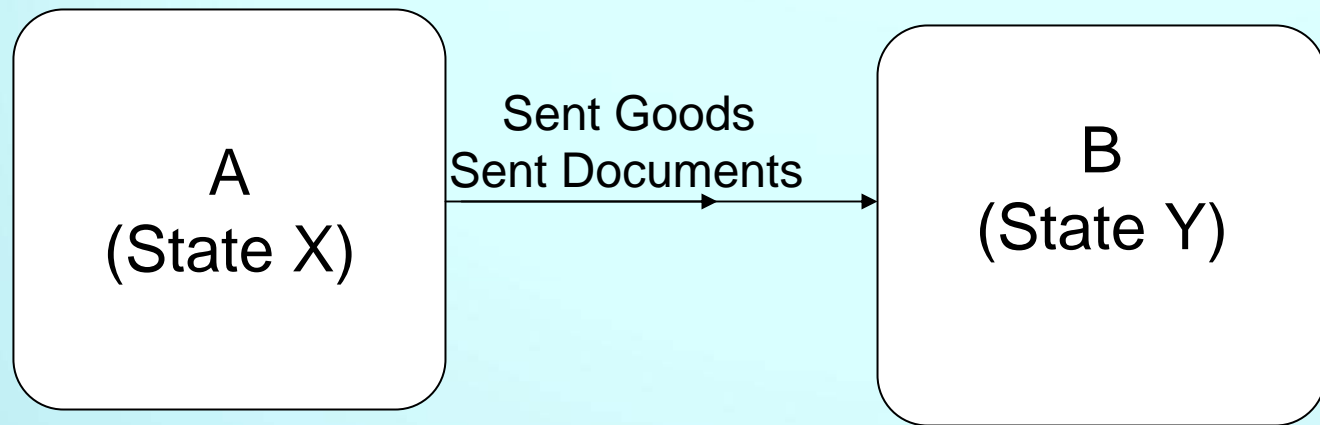


# When is a sale or purchase of goods said to take place outside a state Sec.(4)

- (1) Subject to the provisions contained in section 3, when a sale or purchase of goods is determined in accordance with sub-section (2) to take place inside a State, such sale or purchase shall be deemed to have taken place outside all other States.
- (2) A sale or purchase of goods shall be deemed to take place inside a State, if the goods are within the State-
  - (a) in the case of specific or ascertained goods, at the time the contract of sale is made; and
  - (b) in the case of unascertained or future goods, at the time of their appropriation to the contract of sale by the buyer, whether assent of the other party is prior or subsequent to such appropriation

**Explanation-** Where there is a single contract of sale or purchase of goods situated at more places than one, the provisions of this sub-section shall apply as if there were separate contracts in respect of the goods at each of such places.

In *BALABHDAS HULASCHAND VS STATE OF ORISSA*, the Supreme Court explained the movement of goods as follows:-



It is an inter-state sale between A & B

## Example:-

The company had its registered office in Delhi. It hire-purchased vehicle in Delhi and installments were also received in Delhi. When the option to purchase vehicle was exercised, the vehicle was in Gujarat.

It was held that since actual sale had taken place in Gujarat, it is a sale within Gujarat and outside all other states.

**INSTALMENT SUPPLY CO. vs. STO (1974) 34 (STC 65 ( SC)**

## Example:

The respondent was registered in State X. Goods were purchased by the respondent at State Y i.e. outside the State and were despatched directly from State Y to the dealer in State Z. It was held that the goods were neither brought into nor did move out of the State X and thus, no element of sale, taxable under the Central Sales Tax Act, had *taken place in the state X in the hands of the respondent.*

**(STATE OF A.P. vs. SUVARNA ENTERPRISES (1992) 85 STC 120 ( AP))**

*For a sale to be taxable under CST Act in a state (say X) the movement of goods from X state to another state must be occasioned by such sale. If the goods never entered in X State, they could never be said to have moved from X state to another state and therefore no inter-state sale taxable in X State under the CST Act took place.*

**MEWAR OIL & GENERAL MILLS vs. CTO (1999) 114 STC 547 (RAJ TT)**

## Where is a sale or purchase of goods said to take place in the course of import or export Sec. (5)

- (1) A sale or purchase of goods shall be deemed to take place in the course of the export of the goods out of the territory of India only if the sale or purchase either occasions such export or is effected by a transfer of documents of title to the goods after the goods have crossed the custom frontiers of India.
  
- (2) A sale or purchase of goods shall be deemed to take place in the course of the import of the goods into the territory of India only if the sale or purchase either occasions such import or is effected by a transfer of documents of title to the goods before the goods have crossed the customs frontiers of India.

- (3) Notwithstanding anything contained in sub-section (1), the last sale or purchase of any goods preceding the sale or purchase occasioning the export of those goods out of the territory of India shall also be deemed to be in the course of such export, if such last sale or purchase took place after, and was for the purpose of complying with, the agreement or order for or in relation to such export.
- (4) The provisions of sub-section (3) shall not apply to any sale or purchase of goods unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the exporter to whom the goods are sold in a prescribed form obtained from the prescribed authority.
- (5) Notwithstanding anything contained in sub-section (1), if any designated India carrier purchases Aviation Turbine Fuel for the purposes of its international flight, such purchase shall be deemed to take place in the course of the exports of goods out of the territory of India.



# In the course of Export or Import

The phrase “in the course of the import of the goods into and the export of the goods out of territory of India” cover the period of time during which the goods are on their import or export journey.

In the case of STATE OF TRAVANCORE-COCHIN VS. THE BOMBAY CO. LTD. (1952)3 STC 434 (SC), the supreme court opined that definition of the phrase “in the course of” is not limited within the two terminals, i.e., from the point of time the goods are handed over to the carrier and up to the time they are delivered by the carrier, by adopting the principle of integrated activities, it includes from the agreement for sale which occasions the export till the physical handing over of the goods to the carrier for taking the goods out of the country.



However, in the case of STATE OF TRAVANCORE-COCHIN VS. SHANMUGHA VILAS CASHEW-NUT FACTORY (1953) 4 STC 205 (SC) the supreme court opined that “course of the export out of, or of the import into, the territory of India does not commence or terminate until the goods cross the customs frontier.”

A sale may be said to be in the course of export if there is an intention on the part of both the buyer and the exporter, there is an obligation to export and there is an actual export. The obligation may be reason of statute, contract between the parties; or from mutual understanding or agreement between them, or even from the nature of the transaction which links the sale to export. BEN GORM NILGIRI PLANTATION CO. VS. STO (1964) 15 STC 753 (SC)

## CASE:

i) *Consolidated Coffee Ltd. v/s Coffee Board, Bangalore*  
(AIR 1980 SC 1468)

(ii) *Commissioner of Sales Tax v/s Leather Facts Co.*  
[(1987)66 STC 91 (SC)]

**Section 5(3)** has been enacted to extend the exemption from tax liability under the Act not to any kind of penultimate sale but only to such penultimate sale as satisfied the two conditions specified thereon namely:-

1. that penultimate sale must take place(i.e. become complete) after the agreement or order under which the goods are to be exported
2. It must be for the purpose of complying with such agreement or order and it is only then that such penultimate sale is deemed to be sale in the course of export.

# Sale in the course of Import

As per Sec.5(2) of the CST Act, a sale or purchase of goods is deemed to be in course of import of the goods into the territory of India, only if

- (a) the sale or purchase occasions such import *or*
- (b) is effected by a transfer of documents of title to goods *before* the goods have crossed the customs frontiers of India.

## COURSE OF IMPORT

The course of import of goods starts at a point when the goods cross the customs barrier of the foreign country and ends at a point in India after the goods cross the custom barrier.

***J.V.GOKAL & CO. PVT LTD. VS. ASSTT. COLLECTOR OF SALES TAX(1960) 11STC 186(SC)***

## SALE OCCASSIONS IMPORT

- The expression occasions such import means “occasions movement of goods”.
- It means goods moved by reasons of sale and it shall be associated with the transfer of property from seller to buyer, as defined in the Sale of Goods Act.
- It is not necessary that the sale by the foreign exporter to the Indian purchaser should precede the import.
- There should be privity of contract between the Indian importer and the foreign exporter.

# Case of K.G. KHOSLA & CO. vs DCCT (1966) 17 STC 473 (SC)

In the above case,

The petitioner, under the agreement to supply goods to DGS&D, ordered for import to its principal at Belgium. The DGS&D, London and the Deputy Director, Ministry of W.H. inspected goods. The Supreme Court opined that movement of goods from Belgium to India was in pursuance of the terms of the contracts between the assessee for any other purpose.

The **two sales**, one between the foreign exporter and the DGS&D, were **inextricably connected**.

*Consequently, it was held that sale was in course of import u/s 5(2) of the CST Act.*

## JOBS & WORKS CONTRACT

- **“Work contract”** means a contract for carrying out any work which includes assembling, construction, building, altering, manufacturing, processing, fabricating, erection, installation, fitting out, improvement, repair or commissioning of any movable or immovable property.
- A dealer shall include job charges and works contract in the Gross Turnover.
- If such transactions take place in the course of inter – state trade or commerce , then it is taxable under the CST Act.



# CENTRAL SALES TAX ACT

## CONDITIONS

- There should be a dealer.
- He should be a registered dealer.
- He must carry on any business.
- Sale should take place.
- Sale may be to a registered or unregistered buyer.
- The sale should be of goods.
- The sale can be of also Declared Goods
- The sale should take place in the course of inter State.
- The sale should not be within the same state.
- The sale should not be outside India.



# Some Provisions of State Laws

## applicable to CST

- Section 9(2) of CST Act provides that all provisions of 'General Sales Tax Law' of each State, *except those provided in CST Act and Rules itself*, in respect of the following shall also apply to persons liable under Central Sales Tax Act in that State :
  - Periodic Returns
  - Assessment , Provisional Assessment And Reassessment
  - Advance Payment Of Taxes
  - Registration Of Transferee And Imposition Of Tax Liability On Transferee
  - Recovery Of Tax From Third Parties
  - Appeals, Review ,Revision, References
  - Refunds , Rebates ,Penalties And Interest
  - Compounding Of Offences
  - Treatment Of Documents Furnished By Dealer As Confidential
  - Offences And Penalties

# DECLARATION FORMS

- ▶ **FORM C** – Inter state sale by a registered dealer to another registered dealer including govt. if registered.
- ▶ **FORM D** – Deleted
- ▶ **FORM E I** – Subsequent inter state sale while goods are in movement from one registered dealer to another registered dealer.
- ▶ **FORM E II** – In continuation of FORM- E I.
- ▶ **FORM F** - Transfer to Branch or Agent outside the state.
- ▶ **FORM H**- Penultimate sale to exporter.
- ▶ **FORM I** - Sale to units located in Special Economic Zone
- ▶ **FORM J** – Sale to Diplomats

# Declaration Forms

Section 8(1) gives facility to the selling dealer to sell his goods at a concessional rate, but subject to certain conditions and rules prescribed in this regard.

- ▶ It is a condition for the grant of concession, it must be deemed to be mandatory.

## No Forms if goods are rejected:-

- ▶ No declaration form can be issued for sales transactions where goods are subsequently rejected by the buyer because it is not a completed sale.

# TYPES OF SALES

- Export Sales
- High Sea Sales
- Sales against E-I & E-II Forms
- Sale against C Forms
- Stock/Branch Transfer against F Forms
- Sale against H Forms
- Sale against I Forms
- Sale against J Forms
- Sales of Goods outside State

# EXPORT SALES

As per Section 5(1) of the CST Act, sale or purchase of goods shall be deemed to take place in the course of export out of the territory of India, if:-

- (a) Sale either occasions such export
- (b) Sale is effected by transfer of documents to the titles of goods, after the goods have crossed customs frontiers of India.

# HIGH SEA SALES

- It means sale of goods after crossing the Custom barriers of the Foreign Nation but before crossing the Custom frontiers of India by way of transfer of documents of title of goods.
- ▶ **No Central Sales Tax** is chargeable on High Sea Sales.
- ▶ High Sea Transaction is always a Central Transaction even though it is made between two Local Dealers.



# Relevant Law for High Sea Sales

## Sec 5(2) of CST Act,1956

A sale or purchase of goods shall be deemed to take place in the course of the import of the goods into the territory of India only if the sale or purchase either occasions such import or is effected by a transfer of documents of title to the goods before the goods have crossed the customs frontiers of India.



## IMPORTANT POINTS

- Any registered dealer under CST Act can make High Sea Transactions provided the item to be traded is mentioned on his registration certificate and he is having a valid Import Export Code No.
- **No import duty** is payable on High-Sea Sales made to a unit located in SEZ.
- High Sea Sales cannot be made after filling Bill of entry.

# Verdict given by Honorable A.P. High Court

The goods cross the limits of the customs port after the bill of entry is filed and the import duty is assessed, even though the assessed duty is not yet being paid i.e. High Sea Sales cannot be made after filling Bill of entry.

As per decision given under the case of

*“MINERALS & METALS TRADING CORP. OF  
INDIA LTD. VS. STATE OF A.P. (1998) 110 STC  
394 (AP)”*

## 2. Verdict given by Honorable Madras High Court

Case:

State Trading Corporation of India Ltd. Vs State of T.N. (2003) 129 STC 294 (Madras)

It was held in the above case that the crucial event for the purpose of section 2(ab) and 5(2) of the CST Act is the crossing custom frontier, in other words crossing the limits of the area of the customs station in which goods are stored and not when the goods land in India or enter the territorial waters i.e. the goods cannot be said to cross the custom barrier even after the goods are unloaded from the ship and are assessed to duty after filling of the Bill of entry **until the duty is paid and the goods are brought out of the limits of the Custom Station.**

# Authors view

Based on the decision of Honorable Supreme Court in the case of *State of Bihar vs Tata Engineering and Locomotive Co. [1971] 27 STC 127 (SC)*.

It was held in the above case that the 1<sup>st</sup> test will apply in the cases of sales on High Seas i.e. **when the goods** in course of movement between India and Foreign Country are **sold by transfer of documents of title**.

In the remaining two tests

1. An intention of the parties to the transaction to import
2. Actual Import should exist.

Thus, the goods cannot be sold on high seas after filing of bill of entry because after filing of bill of entry , goods cannot be sold merely by transfer of documents of title.

# **SALE IN TRANSIT** **(E-1 Transaction)**

Sale in Transit means, Sales made by the Buyer (subsequent seller), without taking the physical delivery of the Goods bought during the movement of goods from one state to another i.e. goods resold by transferring the documents of title of the goods, normally called G.R. / R.R. to the another party (Subsequent Buyer).



# FORM E-1

- FORM E-1 is a Statutory form under CST Act.
- The Subsequent Seller has to receive it from his immediate seller.
- These Forms should be submitted to the prescribed authority within prescribed period of time and in manner under the relevant State Act.
- The selling dealer has to make declaration in E-I form if it is a first sale and in E-II form if it is a subsequent sale.

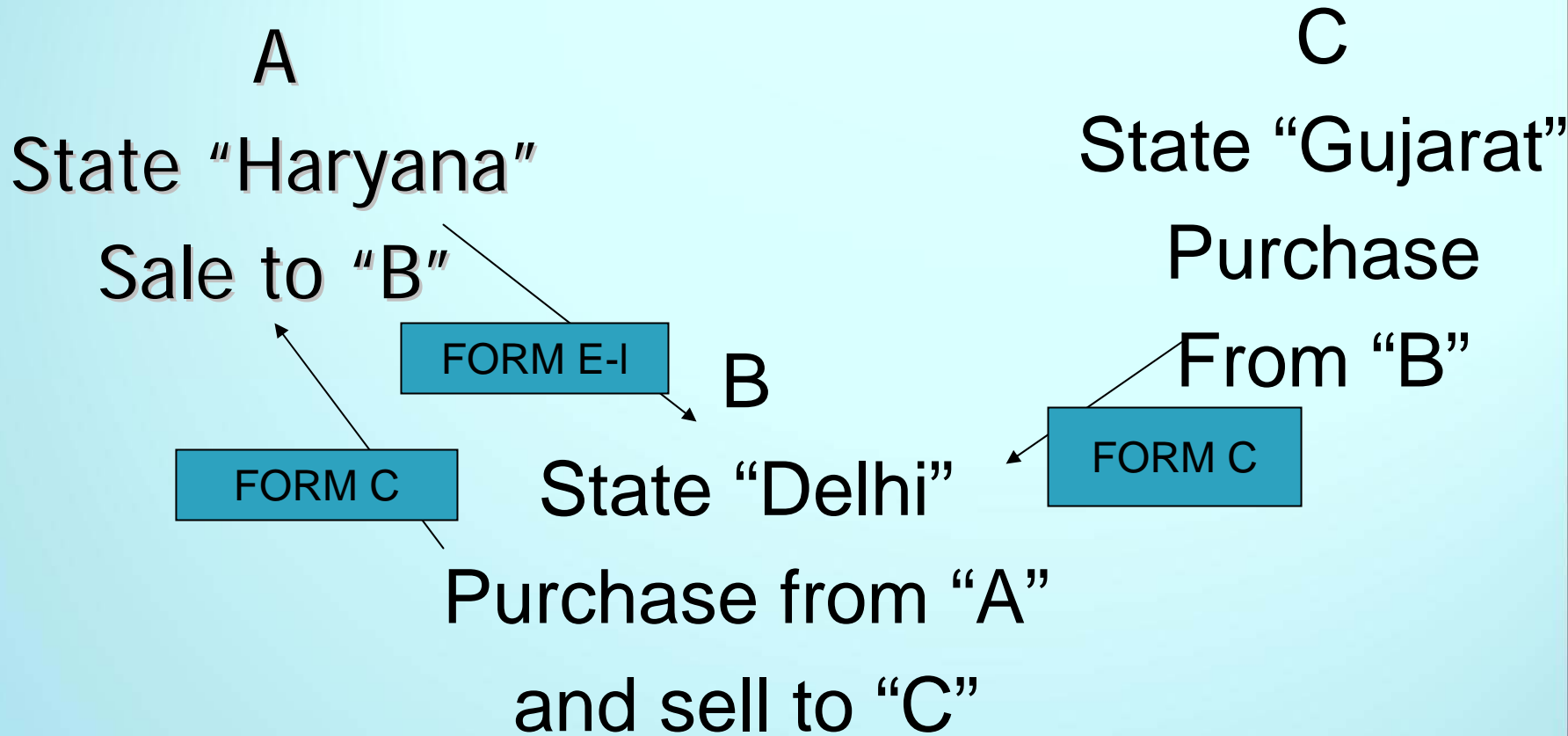
## Manner of Claiming Exemptions

- For Claiming Exemption u/s 6(2) of CST Act for Subsequent Inter-State Sales, Form E-1/II and C Form should be obtained from the purchaser and in the absence of E-1/II and C Form, exemption will not be available.

### As per Central Sales Tax Act, 1956 Section 6(2)

Notwithstanding anything contained in sub-section (1) or sub-section (1A), where a sale of any goods in the course of inter state trade or commerce has either occasioned the movement of such goods from one state to another or has been effected by a transfer of documents of title to such goods during their movement from one state to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to a registered dealer, if the goods are of the description referred to in sub-section (3) of section 8, shall be exempt from tax under this Act.

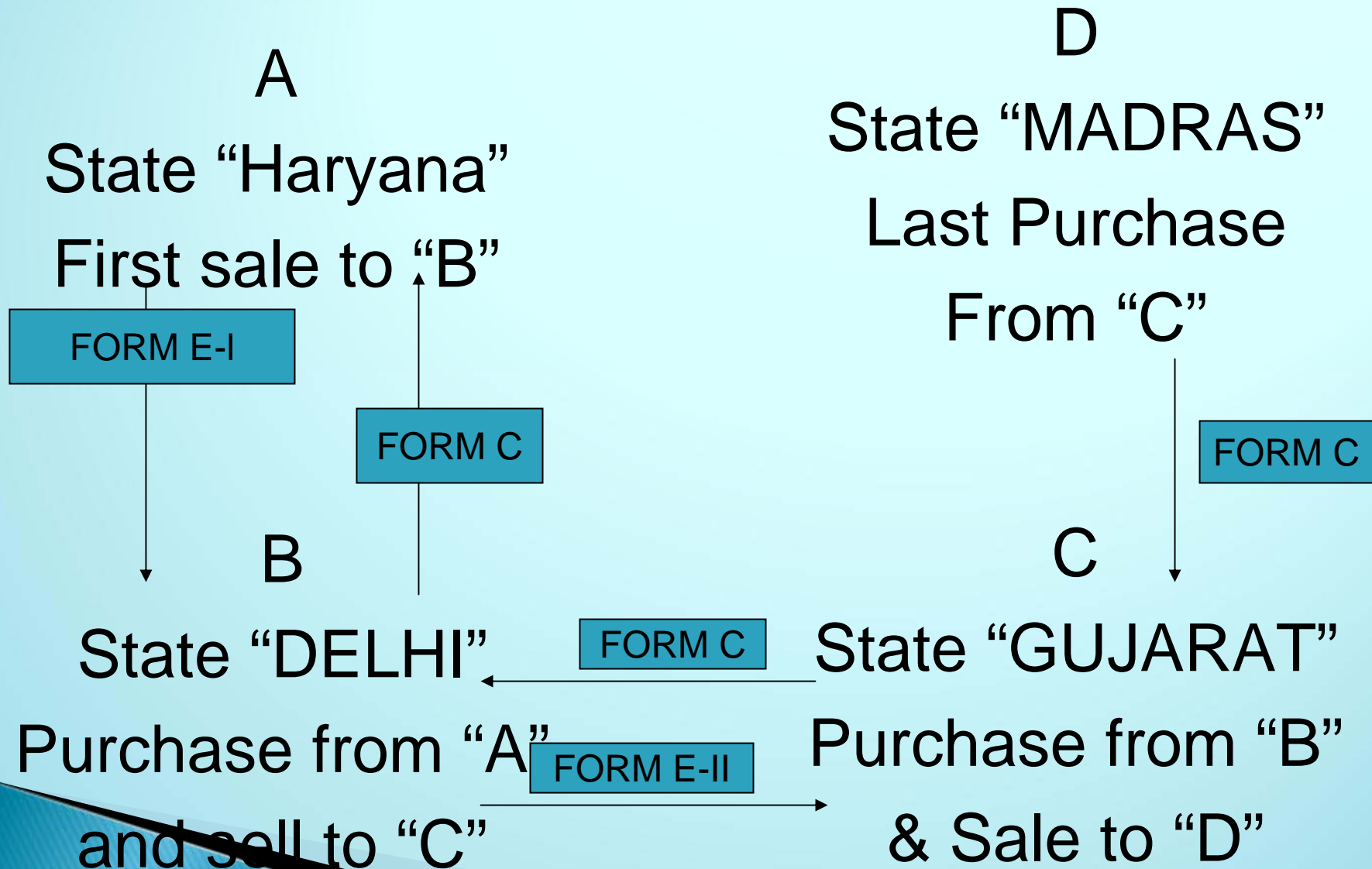
# Example: 1



In the above example,

It is worthy to understand that the transactions between B and C will remain inter-state sale, even both of them are registered in the same state due to the fact that goods are transferred during the movement from one State to another.

# Example :2



- ▶ In the above example the subsequent seller also transfer the goods in transit, then every subsequent buyer will issue form C to his preceding seller.



# *Declaration in Form C*

As per section 8(1)(b) of CST Act, sales tax on Inter State sale is 2% or sales tax rate for sale within the State whichever is lower, if sale is to registered dealer and the goods are covered in the registration certificate of the purchasing dealer.

Otherwise the tax is higher - (10% or tax leviable on sale of goods inside the State, whichever is higher). If the selling dealer pays CST @ 2% or lower (if applicable), he has to produce proof to his sales tax assessing authority that the purchasing dealer is eligible to get these goods at concessional rate. Otherwise, the selling dealer will be asked to pay balance tax payable plus penalty as applicable.

Section 8(4)(a), therefore, provides that **concessional rate is applicable only if purchasing dealer submits a declaration in prescribed form 'C'.**

## AUTHORITY TO ISSUE BLANK C FORM

The blank C form has to be obtained by purchasing dealer from Sales Tax authority in the State in which goods are delivered, which is usually the place where purchasing dealer is registered.

However, in case on Inter State sale by transfer of documents, the purchasing dealer may not be registered with the sales tax authorities in the State where the goods are delivered. In such case, he can obtain blank C form from sales tax authority where he is registered.

# *C Form is mandatory to avail concessional rate*

Submission of **C form is mandatory** and unless C form is submitted, concessional rate of sales tax will not apply. It has been held that this procedure is designed to prevent fraud and collusion, and facilitate administrative efficiency. Hence it is mandatory. Concession can be denied if the form is not submitted .

*(Case: Kedarnath Jute Mfg Co. v. CTO - (1965) 16 STC 607 (SC)*

- ***Number of Transactions per 'C' certificate*** - One declaration in C form can cover all transactions in each quarter, irrespective of total amount/value of transactions during the quarter.
- ***Procedure in case of Loss of C form*** - If duly completed or blank C form is lost when it was in custody of purchasing dealer or when the form was in transit to selling dealer, the purchasing dealer will have to furnish 'Indemnity Bond' to sales tax authority (from whom the blank forms were obtained) in prescribed 'G' form. If the duly completed C form is lost *after* it is received by selling dealer, he has to submit indemnity bond to sales tax authority of his State.

## *Some provisions of C form applicable to E-I/E-II forms*

Following provisions of C form are also applicable in respect of E-I/E-II form

- (a) One declaration for all transactions in each quarter
- (b) Separate declaration for each quarter
- (c) Indemnity bond if form is lost
- (d) Issue of duplicate form
- (e) Submission at any time before assessment
- (f) Like C form, the E-I/E-II forms are mandatory and sales tax concession is not available if the required form is not submitted.

Q.“Can goods purchased by a dealer from the other states at concessional rate of tax against C form”.

Ans. In the case of LARSEN & TOUBRO LTD. VS. COMMERCIAL TAX OFFICER(1992) 85 TC 422 (MAD), the Madras high court opined that the contractors are entitled to take registration as dealers under section 7(2) of the CST Act and consequently are entitled to use C form for their purchases of goods in course of inter-state sale or trade or commerce at the concessional rate.



# Can goods purchased on the strength of Form 'C' can be transferred against Form 'F'?

**Ans. YES**

C form does not specify that the goods must be utilized in the same state ,but the goods must be used by the same entity. Therefore goods purchased on the strength of C form can be transferred against F form.

# Examples

➤ Whether fixed assets like machines, generator and equipments can be purchased on the strength of C form on concessional rate of tax?

**Ans:** Yes , as per the decision of Honorable Supreme court in the case of *J.K. COTTON SPINNING & WEAVING MILLS LIMITED VS STO (1965)16 STC 563 (SC)*

➤ Whether fans, cooler, ,cars, books, air conditioner can be purchase against C Form?

**Ans:** No, as these are not directly linked to the manufacturing or production and therefore not machines or equipments.

# Examples

➤ **Q.** Whether consumables like Diesel, lubricating oils, bleaching powder, welding materials, gases can be purchased against C form?

**Ans:** Yes, as per Rule 13 Of CST( Registration & turnover) Rules, 1957 Also as per the decisions of the Honorable Allahabad High Court in the cases of CTT Vs SHUBHAM CANE CRUSHER(2009) 20 VST104 (ALL) AND CTT VS GOEL INDIA(2009) 23 VST138(ALL)

# Examples

➤ **Q:** Whether spare parts can be bought on the strength of C forms ?

**Ans:** Yes, if they are purchased for resale or to be used against warranty claims

*(CTT VS KANPUR TRACTORS (P) LTD.(2009)20 VST493 (ALL)*

➤ **Q:** Whether raw material can be purchased on the strength of C forms to produce the tax free goods ?

**Ans:** Yes, as per the decision of Honorable Supreme Court in the case of *PRINTERS (MYSORE) LTD. VS. ACTO (1994) 93 STC 95 (SC)*.

# Examples

➤Q. Whether cement, steel and paints use in construction of factory building can be used in manufacture of finished goods?

**Ans. No,**

Cement used in the construction of the factory building or foundation and steel and paints required in the repairs of boiler and protection of machinery can not be use directly in the manufacture of finished goods.

**Case:**

**TRAVANCORE TEA ESTATES CO. LTD. VS. STATE OF KERALA (1977) 39 STC 1 (SC)**

# SALE TO REGISTERED DEALER

- ▶ Section 8 of Central Sales Tax Act permit the levy of a lower rate of sales tax only if sales is made to a registered dealer.
- ▶ The dealer can get the benefit of this provision only if he proves that he had sold the goods to a person who was a registered dealer on the date of sale.
- ▶ A dealer becomes a registered dealer when he is registered under the Act.
- ▶ A dealer who had applied for registration under the Punjab General Tax Act and to whom registration was granted by the officer with effect from the date of application must be treated as registered dealer possessing a registration certificate when his application for registration was pending with the officer.
- ▶ Goods or class of goods must be specified in the registration certificate of the purchasing dealer.



## Problem:-

A enters into an agreement to sell with B on 15<sup>th</sup> March. No sale takes place at the time of this agreement. On 25<sup>th</sup> March, A despatches goods to B, prepare invoice and sends documents of titles through bank making documents in the name of "self", no sale is completed even on this date . On 5<sup>th</sup> April, B makes the payment to the bank and get released the documents from bank

## Solution

So on 5<sup>th</sup> April, the transaction becomes sale and B will obtain Form C from Sales Tax Department. **B should be a registered dealer on this date.**

If A sends documents of titles on 25<sup>th</sup> March making B as consignee, without retaining ownership of goods with him, sale completes on 25<sup>th</sup> March and Form C will be issued on that date.

# Goods eligible for registration:-

Following descriptions of goods are allowed to be included in the certificate of registration of purchaser:-

- ▶ For Resale
- ▶ For use in manufacturing or processing of goods for re-sale.
- ▶ For use in mining
- ▶ For use in telecommunications network
- ▶ For use in generation or distribution of electricity or any other form of power
- ▶ Packing Material

## RESALE

Resale means selling of goods in the same conditions in which goods are purchased and without doing anything to them which amounts to, or results in manufacture.

Goods can be purchased from a registered dealer, outside that State, at a concessional rate of tax by issuing "C" Form.

## MANUFACTURING & PROCESSING

Rule 13 of CST Rules prescribes the goods or registered dealer may purchase for resale, for use in manufacturing or processing of goods for sale, or in telecommunication network, or in mining, or in generation or distribution of electricity or any other form of power:-

- a) Raw material
- b) Machinery
- c) Processing Material
- d) Plant
- e) Equipments & Tools
- f) Fuel or Lubricant
- g) Stores and spare parts
- h) Accessories

## *PACKING MATERIAL*

As per Section 8(3)(c) of the CST Act, packing material can be purchased against declaration forms, if these are containers or other materials specified in the certificate of registration of the registered dealer purchasing the goods, being containers or materials intended for being used for the packing of goods for sale.

- Packing goods must be included in the certificate of registration.
- Goods packed with the purchased packing material must be for sale. It is not required that goods packed must also be included in the certificate of registration

# Declaration in F Form

- When the goods are dispatched to another State on consignment basis or to branch of dealer in another State, there is Inter State movement of goods but there is no sale and hence no CST is payable. This provision is often misused and goods are dispatched in the garb of consignment or branch transfer though actually it may be a sale.
- Hence, section 6A(1) of CST Act provides that when a dealer claims that the Inter State movement of goods is not a sale, he has to prove the same. (In legal terminology, it is called that 'burden of proof' is on the dealer). For this purpose, he must produce a declaration in 'F' form received from Consignment Agent or Branch Office in another State.

# Transactions where F form is required generally

- ▶ Consignment sales
- ▶ Branch Transfer
- ▶ Goods sent/received for Job Work to/from outside the state
- ▶ Sales return under CST Act



# Transfer of goods by way of Consignment

- ▶ The Honorable Supreme Court has levied the tests regarding transfer of goods in the case of Hafiz Din Mohd. Haji Abdullah vs. State of Maharashtra (1962) 13 STC 292 (SC)
- ▶ 1) Determination of sales price of the goods transferred is with the transferor.
- ▶ 2) Sales Consideration has to be remitted by the Transferee.
- ▶ 3) Commission has to be paid against the labour / Services of the Transferee.
- ▶ 4) Right of termination of the agreement is with the Transferor.

# BRANCH TRANSFER

- ▶ Branch(s) means every office outside the State, where the dealer has its head office (i.e. Principal place of Business). Branch may be an office, merely for booking the orders in complete control of the head office or it may be an independent office, monitored by the head office. Even separate registration of branch in other State will not constitute their separate entity.
- ▶ Basic elements required for treating a transaction a complete sale in case of Branch Transfer
- ▶ 1) There must be two parties, who are competent to contract
- ▶ 2) There must be mutual assent
- ▶ 3) There must be transfer of property
- ▶ 4) Valuable consideration must exist.

# JOB WORK

- ▶ Furnishing of Form-F is mandatory for claiming exemption by a dealer for stock transfer from one state to another for the purposes otherwise than sale, It is immaterial whether the person to whom the goods are sent for or received is a **Job worker or bailee**. The requirement to file declaration in form F is applicable in case of goods returned also

# Case of Ambica Steel Limited vs. State of U.P. (2009) 24VST 356(SC)

In the above case,

- ▶ It was held that furnishing of Form F is mandatory for claiming exemption by a dealer for stock transfer from one State to another for the purposes otherwise than sale.
- ▶ It is immaterial whether the person to whom goods are sent for or received is a job worker or bailee.
- ▶ The requirement to file declaration in Form F is applicable in case of goods returned also.

# Goods can be sent to other State for further manufacture

*Goods can be purchased at concessional rate if the goods are for use in the manufacture. Thus, after manufacture, the sale need not be in the same State. In **Indian Aluminum Co. Ltd. v. STO - (1993) 90 STC 410 (Ori HC DB)**, the company was manufacturing Aluminum Ingots at Hirakud, Orissa. These were dispatched to plants of the company in other States for further manufacture of Aluminum coils, sheets etc. Plants in other States were sending 'F' forms. The department accepted the forms without any objection.*

## IMPORTANT POINTS

- With effect from 10<sup>th</sup> November 2005 it is mandatory to file Form-F for all the movement of goods of a state which have taken place otherwise than in pursuance of sales.
- It is the responsibility of the dealer that the movement of the goods is occasioned by the reason of transfer of such goods from head office/branch or agent/principal.
- If the form is lost, indemnity bond has to be given and duplicate form clearly marked as 'Duplicate' can be issued.



# FORM H

*Certificate in form H* - Sale during course of export is exempt from CST. As per section 5(3) of CST Act, penultimate sale is also deemed to be in course of export and is exempt from CST. Dealer actually exporting the goods has proof of export like customs documents, bank certificate, airway bill/bill of lading, shipping bill etc.

- However, the penultimate seller does not have any direct evidence to prove that his sale is exempt from tax. In such cases, the actual exporter has to issue a certificate to the penultimate seller in form H. **The blank 'H' forms are to be obtained from sales tax authority by the final exporter.**

# FORM-I

- ▶ As per the provisions of section 8(6),8(7) & 8 ( 8) of CST Act,1956 read with Rule 12(11) of CST (Registration & Turnover) rules,1957 dealers whose units are situated in SEZ can purchase goods from the dealers situated outside the state on the strength of FORM-I without payment of central sales tax provided the goods they are buying are specified in their registration certificate. This form has to be obtained from the authority specified by the central govt. which is usually the local state vat authority.

# FORM-J

- ▶ As per the provisions of section 6(3) & 6(4) of CST Act,1956 read with rule 12(11A) of CST ( Registration & turnover) Rules,1957,any foreign diplomatic mission or consulate, UNO or any other similar international body notified by the authority can buy the goods on the strength of J form without payment of central sales tax.

# SALE OUTSIDE A STATE

- ▶ When a sale or purchase takes place inside a state, it shall be deemed to be a sale outside all other states and such other state will be the appropriate state to levy tax on such transaction.

# Declared Goods

- Declared goods are goods of Special Importance. If declared goods are sold there are certain benefits which can be obtained by the dealer, which is not available for the ordinary 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:-

- Cereals i.e. paddy, rice, wheat, bajra, jowar, barley etc.
- Coal and coke in all forms excluding charcoal.
- Cotton in un-manufactured form but not cotton waste.
- Cotton fabrics, cotton yarn.
- Crude Oil
- Hides and skins
- Jute
- Iron and steel i.e. pig iron, sponge iron, iron scrap, steel ingots, billets, steel bars, steel structural, sheets, plates, discs, rings, tool steel, tubes, tin plates, steel wheels, wire rod; defectives of above etc.



- Oil Seeds i.e. groundnut, til, cotton seed, linseed, castor, coconut, sunflower, mahua, kokum, sal, etc.
- Pulses i.e. gram, tur, moong, masur, urad etc.
- Man-made fabrics- fabrics of man-made filament yarn i.e. artificial textile materials, polyester staple fibre, tyre cord fabric, impregnated textile fabrics, etc
- Sugar and Khandsari sugar.
- Woven fabrics of wool.
- Aviation Turbine Fuel sold to a turbo-prop aircraft.

# RESTRICTIONS ON STATE TAXATION ON DECLARED GOODS:-

## 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.

# Goods must be sold in same form to obtain reimbursement

Declared goods purchased must be sold in same form i.e. identical goods must be sold. Identity of goods must not be lost.

## Example:

- (a) *Mung, chana* and *urad* converted into *dal* is same commodity.
- (b) Round timber logs are different from sized timber
- (c) Dried coconuts and watery coconuts are different commodities.
- (d) Condensed milk is different from 'milk'.
- (e) Oil seeds and oil extracted from these seeds are different commodities.
- (f) Ice is different commodity than water. Thus, if goods sold after processing are different commodity, reimbursement of local sales tax is not available.

## Some articles which are held as

### 'declared goods'

#### ▶ **GI PIPES**

CASE: [*Gujarat Steel Tubes Ltd. v. State of Kerala* (1989) 2 CLA 100 (SC) = (1989) 74 STC 176 (SC) = (1989) 2 JT 474 (SC)]

#### ▶ **CORRUGATED SHEETS**

CASE [*Gujarat Small Industries Corp v. CST* (1999) 116 STC 193 (Guj HC DB).]

#### ▶ **HR AND CR STEEL STRIPS**

CASE [*Jindal (India) Ltd. v. Dy CCT* (2000) 117 STC 426 (WBTT) ]

#### ▶ **SEWING THREAD**

CASE [*State of Tamilnadu v. R V Krishniah* - (1994) 92 STC 262 (Mad HC DB), ]

## CASE REFERENCES:-

### 1. VEERUMAL MONGA V. STATE OF HARYANA (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.

## CERTAIN CASE LAWS INDICATING WHETHER OR NOT THE FINAL PRODUCT IS DIFFERENT FROM THE RAW MATERIAL:-

I) *Devgun Iron and Steel Rolling Mills vs. State of Punjab (1961) 12STC 590(Pun)*, it was held in the mentioned case that when the scrap iron ingots undergo a vital change in the process of manufacture and are converted into a different commodity, viz, rolled steel sections, the scrap loses its identity and becomes a new marketable commodity.

II) *Baby Ram Jagdish Kumar vs. State of Punjab (1979) 44STC 159(SC)*.

In this case, it was decided that rice is a different commodity than the paddy.



THANK YOU

CA VIJAY KUMAR GUPTA  
PH-011-27377614,09999328958