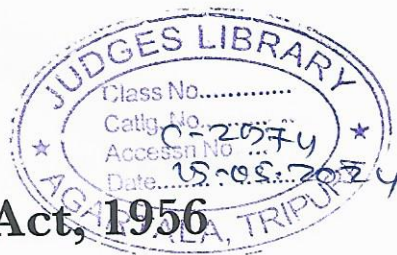


The Central Sales Tax Act, 1956



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The Central Sales Tax Act, 1956

[Act 74 of 1956]

[21st December, 1956]

An Act to formulate principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce or outside a State or in the course of import into or export from India, to provide for the levy, collection and distribution of taxes on sales of goods in the course of inter-State trade or commerce and to declare certain goods to be of special importance in inter-State trade or commerce and specify the restrictions and conditions to which State laws imposing taxes on the sale or purchase of such goods of special importance shall be subject

Be it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

Statement of Objects and Reasons.—“In the interest of the national economy of India certain amendments were undertaken in the Constitution by the Constitution (Sixth Amendment) Act, 1956, whereby—

- (a) taxes on sales or purchases of goods in the course of inter-State trade or commerce were brought expressly within the purview of the legislative jurisdiction of Parliament;
- (b) restrictions could be imposed on the powers of State legislatures with respect to the levy of taxes on the sale or purchase of goods within the State where the goods are of special importance in inter-State trade or commerce.

The amendments at the same time authorised Parliament to formulate principles for determining when a sale or purchase takes place in the course of inter-State trade or commerce or in the course of export or import or outside a State in order that the legislative spheres of Parliament and the State legislatures become clearly demarcated. In the case of goods of special importance in inter-State trade or commerce, a law of Parliament is to lay down the restrictions and conditions subject to which any State law may regulate the tax on sales or purchases of such goods in the State.

2. This Bill seeks to provide for the legislation authorised by the Constitution as amended above with a view to enabling the State Governments to raise additional revenues by levying tax on inter-State transactions which are at present immune from tax under their respective sales tax laws. After taking into account the recommendations of the Taxation Enquiry Commission and in consultation with the States the Government of India were of the view that the following principles should govern the scheme of the detailed legislation on the three inter-related subjects:

- (i) The Central Government should authorise the State Governments to impose on behalf of the Central Government tax on the sale or purchase of goods in the course of inter-State trade or commerce. The Central legislation should also delegate to the States the Central Government's power to levy and collect the tax and for this purpose prescribe the same system of registration, assessment, etc., as prevails in the States concerned under their own sales tax system.
- (ii) An important aspect of the Central legislation will be concerned with the definition of the locale of sales for the purpose of defining in detail the relative jurisdiction, firstly of the Union and the States, and secondly, of the States inter se. It is therefore, necessary that the

law should define clearly, with specific reference to sales tax the circumstances in which a sale or purchase becomes taxable by a particular State and no other. It should also define for the purpose of the constitutional restrictions on the State's power to impose a tax under Item 54 of the State list, when a sale or purchase of goods may be said to take place:

- (a) in the course of export out of India;
 - (b) in the course of import into India; and
 - (c) in the course of inter-State trade or commerce.
- (iii) The Central legislation should provide for the declaration of certain commodities which are in the nature of raw materials and of special importance in inter-State trade or commerce and lay down the restrictions and conditions as to the rate, system of levy and other incidents of tax subject to which the States may impose tax on the sale or purchase thereof.

3. Necessary provisions have, therefore, been made in the different chapters of this Bill incorporating the principles stated above".

2. Statement of Objects and Reasons Amending Act 61 of 1972.—1. The levy of tax on inter-State sales under the Central Sales Tax Act, 1956, commenced from the 1st of July, 1957. Experience of the working of the Act has shown that it requires to be amended in certain respects for dealing with the problems of evasion of tax, realisation of tax in the event of liquidation of a company and for spelling out the intention underlying certain provisions more clearly so as to overcome or avoid interpretation to the contrary.

2. The Bill seeks to make the following important amendments in the Act—

- (i) Exemption from Central Sales Tax on inter-State sales of electrical energy is now dependent on the exemption of tax by a State Government on local sales of electrical energy. It is now proposed to provide specifically that inter-State sale of electrical energy would not be liable to Central Sales Tax.
- (ii) Central Sales Tax is not leviable in respect of transactions of transfer of goods from a head office or a principal to a branch or an agent or vice versa as these do not amount to sale. This aids evasion in that dealers try to show even genuine sales to third parties as transactions of this type. Accordingly, it is proposed to provide that the burden of proving that the transfer of goods in such cases is otherwise than by way of sale shall lie on the dealer who claims exemption from tax on the ground that there was in fact no sale.
- (iii) In order to deal with tax evaders, provision is sought to be made for demand, in appropriate cases, of security or additional security not exceeding Rs 50,000 for initial registration or for continuance of registration. It is also proposed to make the penalty provisions more stringent.
- (iv) Provision is being made for rounding off to the nearest rupee of any tax, interest, penalty or fine payable by dealer under the Act.
- (v) Section 14 of the Act which declares certain goods as of special importance in inter-State trade or commerce is sought to be amended as under—
 - (a) The Supreme Court has ruled that the existing definition of "coal" includes "charcoal". Coal was included as one of the goods of special importance with a view to covering only that "coal" which is mainly used as an industrial fuel and not "charcoal". The definition is, therefore, sought to be amended retrospectively to exclude "charcoal".
 - (b) The definitions of "iron and steel" and "oilseeds", given in the section, have led to various interpretations by assessing authorities and Courts. The existing definitions are therefore sought to be replaced by specific lists of iron and steel items and oilseeds in order to avoid any ambiguity in this respect. The definition of "jute" is also being substituted by a more precise definition.

- (vi) Clause (b) of Section 15 which provides for refund to such person as may be prescribed by rules of local sales tax on goods declared to be of special importance in the inter-State trade or commerce, is being amended retrospectively to make it that the local sales tax can be reimbursed only when tax on the inter-State sale has been paid and not otherwise. By another amendment (which will have prospective effect) to the same clause it is being provided that the local sale, tax on such goods will be reimbursable to the person making a sale of such goods in the course of inter-State trade or commerce.
- (vii) A new chapter is sought to be added to provide for collection of tax in the event of liquidation of a company.
- (viii) The bill also makes necessary provision for validation of past levies.

3. Opportunity is being taken to extend the principal Act to Kohima and Mokokchung districts of Nagaland.

4. The Bill seeks to achieve these objects.

3. Statement of Objects and Reasons Amending Act 103 of 1976.—The Central Sales Tax Act, 1956, formulates the principals for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce or outside a State or in the course of import into, or export from India. The Act also provides for the levy, assessment and collection of tax on sales of goods in the course of inter-State trade or commerce. Further, the Act declares certain goods to be of special importance in inter-State trade or commerce and specifies the restrictions and conditions to which State laws relating to sales tax shall be subject in regard to the levy of tax on the sale or purchase of such goods.

2. According to Section 5(1) of the Central Sales Tax Act, a sale or purchase of goods can qualify as a sale in the course of export of the goods out of the territory of India only if the sale or purchase has either occasioned such export or is by a transfer of documents of title to the goods after the goods have crossed the customs frontiers of India. The Supreme Court has held (*vide Mohd. Serajuddin v. State of Orissa*, 36 STC 136) that the sale by an Indian exporter from India to the foreign importer alone qualifies as a sale which has occasioned the export of the goods. According to the Export Control Orders, exports of certain goods can be made only by specified agencies such as the State Trading Corporation. In other cases also manufacturers of goods, particularly in the small scale and medium sectors, have to depend upon some experienced export house for exporting the goods because special expertise is needed for carrying on export trade. A sale of goods made to an export canalising agency such as the State Trading Corporation or to an export house to enable such agency or export house to export those goods in compliance with an existing contract or order is inextricably connected with the export of the goods. Further, if such sales do not qualify as sales in the course of export they would be liable to State Sales Tax and there would be a corresponding increase in the price of the goods. This would make our exports uncompetitive in the fiercely competitive international markets. It is, therefore, proposed to amend, with effect from the beginning of the current financial year, Section 5 of the Central Sales Tax Act to provide that the last sale or purchase of any goods preceding the sale or purchase of any goods occasioning 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.

3. Sub-section (2) of Section 9 of the Central Sales Tax Act empowers the State Sales Tax authorities to assess, reassess, collect and enforce payment of Central sales tax. The sub-section also authorises the authorities under the State Sales Tax laws to exercise all the powers which they have under those laws (including, inter alia, the power to impose penalties) for the purposes of the Central Sales Tax Act also. In *Khemka & Co. (Agencies) Private Ltd. v. State of Maharashtra* (35 STC 571), the Supreme Court, by a majority of 3:2, held that the provisions of the State Sales Tax laws as to penalties do not apply for purposes of the Central Sales Tax. In view of this judgment, the State Governments are faced with the problem of having to refund the amounts collected in the past by way of penalties. The judgment has also resulted in a vacuum being created in regard to levy of penalties. It is, therefore,



necessary to amend Section 9 of the Central Sales Tax Act to provide expressly that the provisions relating to offences and penalties under the general sales tax law of each State shall, with necessary modifications, apply in relation to the assessment, reassessment, collection and the enforcement of tax under the Central Sales Tax Act. It is also necessary to validate the penalties which have been levied in the past, for the purposes of the Central Sales Tax Act, on the basis of the provisions of the State Sales Tax laws.

4. It is proposed to avail of the present opportunity to declare crude oil and certain cereals and pulses as goods of special importance in the course of inter-State trade or commerce and to make certain other amendments to remove difficulties which have been experienced in the administration of this Act.

5. The Bill seeks to achieve the above objects. The notes on clauses explain the provisions of the Bill.

4. Statement of Objects and Reasons Amending Act 41 of 2001.—Central Sales Tax (CST) is levied under the Central Sales Tax Act, 1956 (74 of 1956) (hereinafter referred to as the CST Act), wherever sale of goods takes place in the course of inter-State trade or commerce. CST is not payable when the movement of goods from one State to another is occasioned not by way of sale but by reason of transfer of such goods to any other place where the dealer carries on his business or to his agent or principal. Since CST is levied by the State from which the movement of goods commences, disputes have arisen many times between two States, as to whether or not the movement of goods in a particular case amounts to sale in the course of inter-State trade or commerce.

2. Presently, there is no mechanism within the Central Sales Tax Act, 1956, to resolve such disputes. Consequently, parties have to approach Courts for a decision. In *Ashok Layland Ltd. v. Union of India*, (1997) 9 SCC 10, the Supreme Court has observed that in the interest of inter-State trade and commerce, the suggestion for creation of a Central mechanism to decide such disputes which are really in the nature of inter-State disputes — may be well worth considering as every dealer affected may not be in a position to approach this Court for appropriate directions. The Court further observed that it is for the Government of India to consider this aspect and take necessary decision in that behalf. Subsequently, in view of the several petitions filed in the Supreme Court, the Supreme Court has directed that a Central mechanism indicated by it in *Ashok Leyland* case may be established by the Central Government to resolve this “conundrum” created by the conflicting interpretations given by the State Sales Tax authorities.

3. In view of the aforesaid background, it is proposed to amend the CST Act by the proposed legislation so as to create a new authority on the lines of the Authority for Advance Rulings set up under Chapter XIX-B of the Income Tax Act, 1961 (43 of 1961), and assign the work of CST related cases to a Central Sales Tax Appellate Authority. Until such time as such authority is constituted, it is considered expedient to assign the work relating to settling inter-State disputes under the CST Act to the Authority for Advance Rulings, which is in a position to take up additional work.

4. The Bill seeks to achieve the above objects.

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.—(1) This Act may be called the Central Sales Tax Act, 1956.

(2) It extends¹ to the whole of India ²[* * *].

(3) It shall come into force on such date³ as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. Definitions.—In this Act, unless the context otherwise requires,—

(a) “appropriate State” means—

- (i) in relation to a dealer who has one or more places of business situate in the same State, that State;
- (ii) in relation to a dealer who has places of business situate in different States, every such State with respect to the place or places of business situate within its territory;

⁴[(aa) “business” includes—

- (i) any trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern; and
- (ii) any transaction in connection with, or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern;

(ab) “crossing the customs frontiers of India” means crossing the limits of the area of a custom station in which imported goods or export goods are ordinarily kept before clearance by customs authorities.

Explanation.—For the purposes of this clause, “customs station” and “customs authorities” shall have the same meanings as in the Customs Act, 1962 (52 of 1962);]

CASE LAW ► Object of amendment in Section 2(ab).—The definition in Section 2(ab) of the phrase “crossing the customs frontiers of India” was inserted by an amendment in 1976. The Objects and Reasons of the amendment were that the phrase had been interpreted to mean, coterminous with the extent of the territorial waters. This had given rise to practical difficulties as it was difficult to determine whether at the time of the sale or purchases, the goods had entered or crossed the territorial waters. The actual checking of the goods took place in the customs station and not at the edge of the territorial waters. It was, therefore, necessary to so define the expression. A customs station has, by reason of the Explanation to Section 2(ab), the same meaning as in the Customs Act, 1962, and that is: “any customs port, customs airport or land customs station”. A customs port is any port appointed under Section 7(a) of the Customs Act to be a customs port, *Minerals & Metals Trading Corpn. of India Ltd. v. STO*, (1998) 7 SCC 19.

1. The Act has been extended to Goa, Daman and Diu (with modifications) by Regn. 12 of 1962, S. 3 and Sch., to Kohima and Mokokchung districts of Nagaland (as in force on 5-8-1971) by Act 61 of 1972, S. 14(1) (w.e.f. 30-11-1972). The amendments made to the Act by Act 61 of 1972 came into force in the said districts (w.e.f. 1-4-1973) [Vide S. 14(2)].
2. The words “except the State of Jammu and Kashmir” omitted by Act 5 of 1958, S. 2 (w.e.f. 1-10-1958).
3. 5-1-1957, all sections except Section 15 [Vide Noti. No. S.R.O. 78, dated 4-1-1957]; Section 15, came into force, w.e.f. 1-10-1958 [Vide G.S.R. 897, dated 23-9-1958].
4. Ins. by Act 103 of 1976, S. 2(a) (w.e.f. 7-9-1976).

► **Sale or purchase in course of export or import.**—Test and conditions for sale or purchase in course of export or import, discussed. However, held, no single test can be laid down for determination of this issue. Each case has to be decided on facts of that case, *Nirmal Kumar Parsan v. CCT*, (2020) 11 SCC 294.

⁵[(b) “dealer” means any person who carries on (whether regularly or otherwise) the business of buying, selling, supplying or distributing goods, directly or indirectly, for cash, or for deferred payment, or for commission, remuneration or other valuable consideration and includes—

- (i) a local authority, a body corporate, a company, any cooperative society or other society, club, firm, Hindu undivided family or other association of persons which carries on such business;
- (ii) a factor, broker, commission agent, *del credere* agent, or any other mercantile agent, by whatever name called, and whether of the same description as hereinbefore mentioned or not, who carries on the business of buying, selling, supplying or distributing, goods belonging to any principal whether disclosed or not; and
- (iii) an auctioneer who carries on the business of selling or auctioning goods belonging to any principal, whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal.

Explanation 1.—Every person who acts as an agent, in any State, of a dealer residing outside that State and buys, sells, supplies or distributes, goods in the State or acts on behalf of such dealer as—

- (i) a mercantile agent as defined in the Sale of Goods Act, 1930 (3 of 1930), or
- (ii) an agent for handling of goods or documents of title relating to goods, or
- (iii) an agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or payment, and every local branch or officer in a State of a firm registered outside that State or a company or other body corporate, the principal office or headquarters whereof is outside that State, shall be deemed to be a dealer for the purposes of this Act.

Explanation 2.—A Government which, whether or not in the course of business, buys, sells, supplies or distributes, goods, directly or otherwise, for cash or for deferred payment or for commission, remuneration or other valuable consideration, shall, except in relation to any sale, supply or distribution of surplus, un-serviceable or old stores or materials or waste products or obsolete or discarded machinery or parts or accessories thereof, be deemed to be a dealer for the purposes of this Act;]

- (c) ⁶[* * *]
- ⁷[(d) “goods” means—
- (i) petroleum crude;
 - (ii) high speed diesel;
 - (iii) motor spirit (commonly known as petrol);
 - (iv) natural gas;
 - (v) aviation turbine fuel; and
 - (vi) alcoholic liquor for human consumption.]

CASE LAW ► Electricity.—Electricity is goods and is, therefore, covered, inter alia, by Entry 54 of List II of Sch. VII to the Constitution. It can be transmitted, transferred, delivered, possessed but cannot be stored. Moreover, its generation of production coincides almost instantaneously with its consumption, *State of A.P. v. National Thermal Power Corpn. Ltd.*, (2002) 5 SCC 203.

(dd) “place of business” includes—

- (i) in any case where a dealer carries on business through an agent (by whatever name called), the place of business of such agent;
 - (ii) a warehouse, godown or other place where a dealer stores his goods; and
 - (iii) a place where a dealer keeps his books of account;
- (e) “prescribed” means prescribed by rules made under this Act;
- (f) “registered dealer” means a dealer who is registered under Section 7;
- ⁸[(g) “sale”, with its grammatical variations and cognate expressions, means any transfer of property in goods by one person to another for cash or for deferred payment or for any other valuable consideration, and includes,—
- (i) a transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
 - (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 instalments;
 - (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;

6. Omitted by Act 18 of 2017, S. 13(a) (w.e.f. 1-7-2017). Prior to omission it read as:

‘(c) “declared goods” means goods declared under Section 14 to be of special importance in inter-State trade or commerce;’.

7. Subs. by Act 18 of 2017, S. 13(b) (w.e.f. 1-7-2017). Prior to substitution it read as:

‘(d) “goods” includes all materials, articles, commodities and all other kinds of movable property, but does not include newspapers, actionable claims, stocks, shares and securities;’.

8. Subs. by Act 20 of 2002, S. 150 (w.e.f. 11-5-2002).

- (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;]
- (h) "sale price" means the amount payable to a dealer as consideration for the sale of any goods, less any sum allowed as cash discount according to the practice normally prevailing in the trade, but inclusive of any sum charged for anything done by the dealer in respect of the goods at the time of or before the delivery thereof other than the cost of freight or delivery or the cost of installation in cases where such cost is separately charged:

⁹[Provided that in the case of a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract, the sale price of such goods shall be determined in the prescribed manner by making such deduction from the total consideration for the works contract as may be prescribed and such price shall be deemed to be the sale price for the purposes of this clause.]

CASE LAW ► Sale Price.—Where the terms of the contract provide for payment of railway freight by the purchaser the amount of freight forms part of the sale price within the meaning of the first part of the definition, *Hindustan Sugar Mills v. State of Rajasthan*, (1978) 4 SCC 271; 1978 SCC (Tax) 225.

- ¹⁰[(i) "sales tax law" means any law for the time being in force in any State or part thereof which provides for the levy of taxes on the sale or purchase of goods generally or on any specified goods expressly mentioned in that behalf and includes value added tax law, and "general sales tax law" means any law for the time being in force in any State or part thereof which provides for the levy of tax on the sale or purchase of goods generally and includes value added tax law;]
- (j) "turnover" used in relation to any dealer liable to tax under this Act means the aggregate of the sale prices received and receivable by him in respect of sales of any goods in the course of inter-State trade or commerce made during any prescribed period and determined in accordance with the provisions of this Act and the rules made thereunder;
- ¹¹[(ja) "works 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;]

9. Ins. by Act 103 of 1976, S. 89(a) (w.e.f. 13-5-2005).

10. Subs. by Act 103 of 1976, S. 89(b) (w.e.f. 13-5-2005).

11. Ins. by Act 103 of 1976, S. 89(c) (w.e.f. 13-5-2005).

- (k) “year”, in relation to a dealer, means the year applicable in relation to him under the general sales tax law of the appropriate State, and where there is no such year applicable, the financial year.

CHAPTER II

FORMULATION OF PRINCIPLES FOR DETERMINING WHEN A SALE OR PURCHASE OF GOODS TAKES PLACE IN THE COURSE OF INTER-STATE TRADE OR COMMERCE OR OUTSIDE A STATE OR IN THE COURSE OF IMPORT OR EXPORT

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 transmission, 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 a 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.

¹²[*Explanation 3.*—Where the gas sold or purchased and transported through a common carrier pipeline or any other common transport or distribution system becomes co-mingled and fungible with other gas in the pipeline or system and such gas is introduced into the pipeline or system in one State and is taken out from the pipeline in another State, such sale or purchase of gas shall be deemed to be a movement of goods from one State to another.]

CASE LAW ► Nature and scope.—A sale which takes place under Section 3(a) shall stand excluded from the purview of Section 3(b) and vice versa. The dividing line between sales or purchases under Section 3(a) and those falling under Section 3(b) is that in the former case the movement is under the contract whereas in the latter case the contract comes into existence only after the commencement and before termination of the inter-State movement of the goods, *A & G Projects & Technologies Ltd. v. State of Karnataka*, (2009) 2 SCC 326.

► **Movement of goods.**—“Movement of goods” is only material for the purpose of deciding whether the sale took place in the course of inter-State trade or commerce or whether such sale was purely an intra-State transaction, *A & G Projects & Technologies Ltd. v. State of Karnataka*, (2009) 2 SCC 326.

► **Inter-state sale.**—If the movement of goods from one State to another is the result of a covenant or an incident of the contract of sale, then the sale is an inter-State sale, *Union of India v. K.G. Khosla*, (1979) 2 SCC 242; 1979 SCC (Tax) 101, See also *CVAT v. ABB Ltd.*, (2016) 6 SCC 791.

12. *Ins. by Act 28 of 2016, S. 224 (w.e.f. 14-5-2016).*

To become inter-State sale, (i) there must be sale of goods by virtue of an obligation (not necessarily by an agreement) by seller to transport goods outside the State, and (ii) such sale should occasion movement of goods from one State to another or effected by transfer of documents of title to the goods during their movement from one State to another, *Hyderabad Engg. Industries v. State of A.P.*, (2011) 4 SCC 705 : (2011) 2 SCC (Civ) 433.

“sale of goods” includes “an agreement of sale”. Hence, if agreement of sale contemplates inter-State movement of goods, though said sale takes place at destination or in the course of movement of said goods, it satisfies conditions of Section 3(a), *Hyderabad Engg. Industries v. State of A.P.*, (2011) 4 SCC 705 : (2011) 2 SCC (Civ) 433.

► **Burden of proof.**—Revenue is entitled to presume that there has been a sale or purchase of goods in the course of inter-State trade or commerce, hence, burden to rebut the same lies on assessee by filing declaration in Form F under Section 6-A, *Hyderabad Engg. Industries v. State of A.P.*, (2011) 4 SCC 705 : (2011) 2 SCC (Civ) 433.

► **Situs of sale.**—Neither State legislation nor Judge-made law can artificially fix a situs of sale so as to create territorial nexus attracting tax legislation of any State and tax on an inter-State sale, *State of A.P. v. National Thermal Power Corpn. Ltd.*, (2002) 5 SCC 203.

4. When is a sale or purchase of goods said to take place outside a State.—(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 seller or 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.

CASE LAW ► Determination of situs of sale.—As per Section 4(2) of Central Sales Tax Act, in case of unascertained or future goods, sale or purchase must be deemed to have taken place in a State where goods happened to be at the time of their appropriation by seller or buyer. Vehicle purchased remains in category of unascertained goods till dealer hands over possession of vehicle to purchaser at registration office in a deliverable and registrable state. Vehicle stands appropriated to contract of sale only at such place. This view also gets strengthened by provisions under Section 4(4) of Sale of Goods Act, 1930. Further held, by virtue of Section 21 of Sale of Goods Act, position remains unchanged (i.e. sale of vehicle takes place at the place of its registration) even if motor vehicles are to be treated as specific and ascertained goods at the time when sale invoice with all specific particulars is issued in respect thereof, *CCT v. K.T.C. Automobiles*, (2016) 4 SCC 82 : (2016) 2 SCC (Civ) 559.

5. When is a sale or purchase of goods said to take place in the course of import or export.—(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 customs 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.

¹³[(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.]

¹⁴[(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 exported 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 Indian 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 export of goods out of the territory of India.

Explanation.—For the purposes of this sub-section, “designated Indian carrier” means any carrier which the Central Government may, by notification in the Official Gazette, specify in this behalf.]

CASE LAW ▶ Nature and scope.—Provision in Section 5(1) is in pari materia with Section 5(2), *K. Gopinathan Nair v. State of Kerala*, (1997) 10 SCC 1.

▶ **Applicability.**—Section 5(3) is applicable only where the goods sold or purchased have not undergone any transformation. Where raw hides and skins were purchased and after processing the same, dressed hides and skins were exported, Section 5(3) had no application, *Shafeeq Shammel & Co. v. Asstt. Commr., Commercial Taxes*, (2003) 9 SCC 276.

▶ **Interrelation between Section 5 and Article 286.**—Section 5 defines what Article 286 forbids, *State of Maharashtra v. Embee Corpn.*, (1997) 7 SCC 190.

▶ **Sale in course of export.**—Legal position of what constitutes sale in course of export, summarized in the light of Statement of Objects and Reasons to CST Amendment Act, 1976, *State of Karnataka v. Azad Coach Builders (P) Ltd.*, (2010) 9 SCC 524.

If the contract of the purchaser with the exporter is not an integrated one, then the exporter would be the last purchaser within the State. Mere mention of F.O.B. price or F.O.B. delivery by the purchaser to the

13. *Ins.* by Act 103 of 1976, S. 3() (w.e.f. 7-9-1976) (w.r.e.f. 1-4-1976).

14. *Ins.* by Act 103 of 1976, S. 90 (w.e.f. 13-5-2005).

exporter will not integrate his contract with that between the exporter and the foreign purchaser, *Murarilal Sarawagi v. State of A.P.*, (1977) 1 SCC 639 : 1977 SCC (Tax) 230.

Proper test to determine sale in course of export is whether there was an inextricable, and not merely remote, casual, accidental or fortuitous, link between local sale or purchase with the export. If yes, claim to exemption from State sales tax would be justified. Burden of proof, however, would lie on assessee — Same goods theory not applicable in such case, *State of Karnataka v. Azad Coach Builders (P) Ltd.*, (2010) 9 SCC 524.

There has to be an inextricable link between local sales or purchase with the export of goods, only then can claim for exemption be justified, *Saraf Trading Corpn. v. State of Kerala*, (2011) 2 SCC 344 : (2011) 1 SCC (Civ) 443.

► **Exemption under Section 5(2).**—Exemption under Section 5(2) i.e. regarding cases where sales take place in the course of the import of the goods into territory of India is not applicable to sales made post crossing of the customs frontiers. Meaning of the expression “sale in the course of import”, explained. Relevance of bill of lading, bill of entry and import general manifest (IGM), for ascertaining the true “importer” of goods, discussed, *Vellanki Frame Works v. CTO*, (2021) 3 SCC 39.

CHAPTER III

INTER-STATE SALES TAX

6. Liability to tax on inter-State sales.—(1) Subject to the other provisions contained in this Act, every dealer shall, with effect from such date¹⁵ as the Central Government may, by notification in the Official Gazette, appoint, not being earlier than thirty days from the date of such notification, be liable to pay tax under this Act on all sales of goods other than electrical energy effected by him in the course of inter-State trade or commerce during any year on and from the date so notified:

¹⁶[Provided that a dealer shall not be liable to pay tax under this Act on any sale of goods which, in accordance with the provisions of sub-section (3) of Section 5, is a sale in the course of export of those goods out of the territory of India.]

(1-A) A dealer shall be liable to pay tax under this Act on a sale of any goods effected by him in the course of inter-State trade or commerce notwithstanding that no tax would have been leviable (whether on the seller or the purchaser) under the sales tax law of the appropriate State if that sale had taken place inside that State.

¹⁷[(2) Notwithstanding anything contained in sub-section (1) or sub-section (1-A), 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:

15. 1-7-1957 vide S.R.O. 940-A, dated 26-3-1957.

16. *Ins.* by Act 103 of 1976, S. 4 (w.r.e.f. 1-4-1976).

17. *Subs.* by Act 16 of 2007, S. 2 (w.e.f. 1-4-2007).

Provided that no such subsequent sale shall be exempt from tax under this sub-section unless the dealer effecting the sale furnishes to the prescribed authority in the prescribed manner and within the prescribed time or within such further time as that authority may, for sufficient cause, permit,—

- (a) a certificate duly filled and signed by the registered dealer from whom the goods were purchased containing the prescribed particulars in a prescribed form obtained from the prescribed authority; and
- (b) if the subsequent sale is made to a registered dealer, a declaration referred to in sub-section (4) of Section 8:

Provided further that it shall not be necessary to furnish the declaration referred to in clause (b) of the preceding proviso in respect of a subsequent sale of goods if,—

- (a) the sale or purchase of such goods is, under the sales tax law of the appropriate State exempt from tax generally or is subject to tax generally at a rate which is lower than three per cent or such reduced rate as may be notified by the Central Government, by notification in the Official Gazette, under sub-section (1) of Section 8 (whether called a tax or fee or by any other name); and
- (b) the dealer effecting such subsequent sale proves to the satisfaction of the authority referred to in the preceding proviso that such sale is of the nature referred to in this sub-section.]

¹⁸[(3) Notwithstanding anything contained in this Act, no tax under this Act shall be payable by any dealer in respect of sale of any goods made by such dealer, in the course of inter-State trade or commerce, to any official, personnel, consular or diplomatic agent of—

- (i) any foreign diplomatic mission or consulate in India; or
- (ii) the United Nations or any other similar international body,

entitled to privileges under any convention or agreement to which India is a party or under any law for the time being in force, if such official, personnel, consular or diplomatic agent, as the case may be, has purchased such goods for himself or for the purposes of such mission, consulate, United Nations or other body.

(4) The provisions of sub-section (3) shall not apply to the sale of goods made in the course of inter-State trade or commerce unless the dealer selling such goods furnishes to the prescribed authority a certificate in the prescribed manner on the prescribed form duly filled and signed by the official, personnel, consular or diplomatic agent, as the case may be.]

CASE LAW ► Object.—Section 6(2) was introduced in Section 6 in order to avoid cascading effect of multiple taxation, *A & G Projects & Technologies Ltd. v. State of Karnataka*, (2009) 2 SCC 326.

6-A. Burden of proof, etc., in case of transfer of goods claimed otherwise than by way of sale.—(1) Where any dealer claims that he is not liable to pay tax under this Act, in respect of any goods, on the ground that the movement of such

18. Subs. for sub-section (3) by Act 103 of 1976, S. 91 (w.e.f. 13-5-2005).

goods from one State to another was occasioned by reason of transfer of such goods by him to any other place of his business or to his agent or principal, as the case may be, and not by reason of sale, the burden of proving that the movement of those goods was so occasioned shall be on that dealer and for this purpose he may furnish to the assessing authority, within the prescribed time or within such further time as that authority may, for sufficient cause, permit, a declaration, duly filled and signed by the principal officer of the other place of business, or his agent or principal, as the case may be, containing the prescribed particulars in the prescribed form obtained from the prescribed authority, along with the evidence of despatch of such goods ¹⁹[, and if the dealer fails to furnish such declaration, then, the movement of such goods shall be deemed for all purposes of this Act to have been occasioned as a result of sale.]

(2) If the assessing authority is satisfied after making such inquiry as he may deem necessary that the particulars contained in the declaration furnished by a dealer under sub-section (1) ²⁰[are true and that no inter-State sale has been effected, he may, at the time of, or at any time before, the assessment of the tax payable by the dealer under this Act, make an order to that effect and thereupon the movement of goods to which the declaration relates shall, subject to the provisions of sub-section (3)] be deemed for the purposes of this Act to have been occasioned otherwise than as a result of sale.

²¹[(3) Nothing contained in sub-section (2) shall preclude reassessment by the assessing authority on the ground of discovery of new facts or revision by a higher authority on the ground that the findings of the assessing authority are contrary to law, and such reassessment or revision may be done in accordance with the provisions of general sales tax law of the State.]

Explanation.—In this section, “assessing authority”, in relation to a dealer, means the authority for the time being competent to assess the tax payable by the dealer under this Act.

CASE LAW ► Legal fiction.—The legal fiction enacted under Section 431 is not limited to “the purpose of this Act” unlike Section 6-A of the Central Sales Tax Act, 1956. The object of the legal fiction created by Section 431 is to extend for the purpose of recovery of compensation until such recovery is completed, *Kumaran v. State of Kerala*, (2017) 7 SCC 471 : (2017) 3 SCC (Cri) 431.

7. Registration of dealers.—(1) Every dealer liable to pay tax under this Act shall, within such time as may be prescribed for the purpose, make an application for registration under this Act to such authority in the appropriate State as the Central Government may, by general or special order, specify, and every such application shall contain such particulars as may be prescribed.

19. *Ins.* by Act 20 of 2002, S. 151 (w.e.f. 11-5-2002).

20. *Subs.* for “are true, he may, at the time of, or at any time before, the assessment of the tax payable by the dealer under this Act, make an order to that effect and thereupon the movement of goods to which the declaration relates shall” by Act 14 of 2010, S. 78(a) (w.e.f. 8-5-2010).

21. *Ins.* by Act 14 of 2010, S. 78(b) (w.e.f. 8-5-2010).

(2) Any dealer liable to pay tax under the sales tax law of the appropriate State, or where there is no such law in force in the appropriate State or any part thereof, any dealer having a place of business in that State or part, as the case may be, may, notwithstanding that he is not liable to pay tax under this Act, apply for registration under this Act to the authority referred to in sub-section (1), and every such application shall contain such particulars as may be prescribed.

Explanation.—For the purposes of this sub-section, a dealer shall be deemed to be liable to pay tax under the sales tax law of the appropriate State notwithstanding that under such law a sale or purchase made by him is exempt from tax or a refund or rebate of tax is admissible in respect thereof.

(2-A) Where it appears necessary to the authority to whom an application is made under sub-section (1) or sub-section (2) so to do for the proper realisation of the tax payable under this Act or for the proper custody and use of the forms referred to in clause (a) of the first proviso to sub-section (2) of Section 6 or sub-section (1) of Section 6-A or ²²[sub-section (4) of Section 8], he may, by an order in writing and for reasons to be recorded therein, impose as a condition for the issue of a certificate of registration a requirement that the dealer shall furnish in the prescribed manner and within such time as may be specified in the order such security as may be so specified, for all or any of the aforesaid purposes.

(3) If the authority to whom an application under sub-section (1) or sub-section (2) is made, is satisfied that the application is in conformity with the provisions of this Act and the rules made thereunder, and the condition, if any, imposed under sub-section (2-A), has been complied with he shall register the applicant and grant to him a certificate of registration in the prescribed form which shall specify the class or classes of goods for the purposes of sub-section (1) of Section 8.

(3-A) Where it appears necessary to the authority granting a certificate of registration under this section so to do for the proper realisation of tax payable under this Act or for the proper custody and use of the forms referred to in sub-section (3-A), he may, at any time while such certificate is in force, by an order in writing and for reasons to be recorded therein, require the dealer, to whom the certificate has been granted, to furnish within such time as may be specified in the order and in the prescribed manner such security, or, if the dealer has already furnished any security in pursuance of an order under this sub-section or sub-section (2-A), such additional security, as may be specified in the order, for all or any of the aforesaid purposes.

²³[(3-B) No dealer shall be required to furnish any security under sub-section (2-A) or any security or additional security under sub-section (3-A) unless he has been given an opportunity of being heard.

(3-BB) The amount of security which a dealer may be required to furnish under sub-section (2-A) or sub-section (3-A) or the aggregate of the amount of such

22. Subs. for "Clause (a) of sub-section (4) of Section 8" by Act 16 of 2007, S. 3 (w.e.f. 1-4-2007).

23. Subs. by Act 103 of 1976, S. 5 (w.e.f. 7-9-1976).

security and the amount of additional security which he may be required to furnish under sub-section (3-A), by the authority referred to therein, shall not exceed—

- (a) in the case of a dealer other than a dealer who has made an application, or who has been registered in pursuance of an application, under sub-section (2), a sum equal to the tax payable under this Act, in accordance with the estimate of such authority, on the turnover of such dealer for the year in which such security or, as the case may be, additional security is required to be furnished; and
- (b) in the case of a dealer who has made an application, or who has been registered in pursuance of an application, under sub-section (2), a sum equal to the tax leviable under this Act, in accordance with the estimate of such authority on the sales to such dealer in the course of inter-State trade or commerce in the year in which such security or, as the case may be, additional security is required to be furnished, had such dealer been not registered under this Act.]

(3-C) Where the security furnished by a dealer under sub-section (2-A) or sub-section (3-A) is in the form of a surety bond and the surety becomes insolvent or dies, the dealer shall, within thirty days of the occurrence of any of the aforesaid events, inform the authority granting the certificate of registration and shall within ninety days of such occurrence furnish a fresh surety bond or furnish in the prescribed manner other security for the amount of the bond.

(3-D) The authority granting the certificate of registration may by order and for good and sufficient cause forfeit the whole or any part of the security furnished by a dealer,—

- (a) for realising any amount of tax or penalty payable by the dealer;
- (b) if the dealer is found to have misused any of the forms referred to in sub-section (2-A) or to have failed to keep them in proper custody:

Provided that no order shall be passed under this sub-section without giving the dealer an opportunity of being heard.

(3-E) Where by reason of an order under sub-section (3-D), the security furnished by any dealer is rendered insufficient, he shall make up the deficiency in such manner and within such time as may be prescribed.

(3-F) The authority issuing the forms referred to in sub-section (2-A) may refuse to issue such forms to a dealer who has failed to comply with an order under that sub-section or sub-section (3-A), or with the provisions of sub-section (3-C) or sub-section (3-E), until the dealer has complied with such order or such provisions, as the case may be.

(3-G) 'The authority granting a certificate of registration may, on application by the dealer to whom it has been granted, order the refund of any amount or part thereof deposited by the dealer by way of security under this section, if it is not required for the purposes of this Act.

(3-H) Any person aggrieved by an order passed under sub-section (2-A), sub-section (3-A), sub-section (3-D) or sub-section (3-G) may, within thirty days of the service of the order on him, but after furnishing the security, prefer, in such form and manner, as may be prescribed, an appeal against such order to such

authority (hereafter in this section referred to as the "appellate authority") as may be prescribed:

Provided that the appellate authority may, for sufficient cause, permit such person to present the appeal,—

- (a) after the expiry of the said period of thirty days; or
- (b) without furnishing the whole or any part of such security.

(3-I) The procedure to be followed in hearing any appeal under sub-section (3-H), and the fees payable in respect of such appeals shall be such as may be prescribed.

(3-J) The order passed by the appellate authority in any appeal under sub-section (3-H) shall be final.

(4) A certificate of registration granted under this section may—

- (a) either on the application of the dealer to whom it has been granted, or, where no such application has been made, after due notice to the dealer, be amended by the authority granting it if he is satisfied that by reason of the registered dealer having changed the name, place or nature of his business or the class or classes of goods in which he carries on business or for any other reason the certificate of registration granted to him requires to be amended; or
- (b) be cancelled by the authority granting it where he is satisfied, after due notice to the dealer to whom it has been granted, that he has ceased to carry on business or has ceased to exist, or has failed without sufficient cause, to comply with an order under sub-section (3-A) or with the provisions of sub-section (3-C) or sub-section (3-E) or has failed to pay any tax or penalty payable under this Act or in the case of a dealer registered under sub-section (2) has ceased to be liable to pay tax under the sales tax law of the appropriate State or for any other sufficient reason.

(5) A registered dealer may apply in the prescribed manner not later than six months before the end of a year to the authority which granted his certificate of registration for the cancellation of such registration, and the authority shall, unless the dealer is liable to pay tax under this Act, cancel the registration accordingly, and where he does so, the cancellation shall take effect from the end of the year.

8. Rates of tax on sales in the course of inter-State trade or commerce.—²⁴[(1) Every dealer, who in the course of inter-State trade or commerce, sells to a registered dealer goods of the description referred to in sub-section (3), shall be liable to pay tax under this Act, which shall be three per cent of his turnover or at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State, whichever is lower:

Provided that the Central Government may, by notification in the Official Gazette, reduce the rate of tax under this sub-section.

24. Subs. by Act 16 of 2007, S. 4 (w.e.f. 1-4-2007).

NOTIFICATION

*Ministry of Finance (Deptt. of Revenue), Noti. No. S.O. 1277(E), dated May 30, 2008,
published in the Gazette of India, Extra., Part II, Section 3(ii),
dated 30th May, 2008, p. 1, No. 745*

In exercise of the powers conferred by the proviso to sub-section (1) of Section 8 of the Central Sales Tax Act, 1956 (74 of 1956), the Central Government hereby reduces the rate of tax as specified in sub-section (1) of Section 8 of the said Act from three per cent to two per cent with effect from 1st June, 2008.

(2) The tax payable by any dealer on his turnover in so far as the turnover or any part thereof relates to the sale of goods in the course of inter-State trade or commerce not falling within sub-section (1), shall be at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State.

Explanation.—For the purposes of this sub-section, a dealer shall be deemed to be a dealer liable to pay tax under the sales tax law of the appropriate State, notwithstanding that he, in fact, may not be so liable under that law.]

²⁵[* * *]

²⁶[(3) The goods referred to in sub-section (1)—]

(a) ²⁷[* * *].

²⁸[(b) are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for re-sale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture or processing for sale of goods specified under clause (d) of Section 2;]

(c) 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;

(d) are containers or other materials used for the packing of any goods or classes of goods specified in the certificate of registration referred to in ²⁹[* * *] clause (b) or for the packing of any containers or other materials specified in the certificate of registration referred to in clause (c).

³⁰[(4) The provisions of sub-section (1) shall not apply to any sale in the course of inter-State trade or commerce unless the dealer selling the goods furnishes to the

25. Sub-section (2-A) omitted by Act 20 of 2002, S. 152(ii) (w.e.f. 11-5-2002).

26. Subs. by Act 16 of 2007, S. 4 (w.e.f. 1-4-2007).

27. In S. 8(3) cl. (a), the words “in the case of goods other than declared goods” in clause (b) and the words, brackets and letter “clause (a) or” in clause (d) omitted by Act 8 of 1963, S. 2 (w.e.f. 1-4-1963).

28. Subs. by Act 13 of 2021, S. 150, (w.e.f. 28-3-2021). Prior to substitution it read as:

“(b) are goods of the class or classes specified in the certificate of registration of the registered dealer purchasing the goods as being intended for resale by him or subject to any rules made by the Central Government in this behalf, for use by him in the manufacture or processing of goods for sale or in the telecommunications network or in mining or in the generation or distribution of electricity or any other form of power;”

29. In S. 8(3) cl. (a), the words “in the case of goods other than declared goods” in clause (b) and the words, brackets and letter “clause (a) or” in clause (d) omitted by Act 8 of 1963, S. 2 (w.e.f. 1-4-1963).

30. Subs. by Act 16 of 2007, S. 4 (w.e.f. 1-4-2007).

prescribed authority in the prescribed manner a declaration duly filled and signed by the registered dealer to whom the goods are sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority:

Provided that the declaration is furnished within the prescribed time or within such further time as that authority may, for sufficient cause, permit.]

(5) Notwithstanding anything contained in this section, the State Government may, ³¹[on the fulfilment of the requirements laid down in sub-section (4) by the dealer], if it is satisfied that it is necessary so to do in the public interest, by notification in the Official Gazette, and subject to such conditions as may be specified therein, direct,—

- (a) that no tax under this Act shall be payable by any dealer having his place of business in the State in respect of the sales by him, in the course of inter-State trade or commerce ³²[to a registered dealer [* * *]]³³, from any such place of business of any such goods or classes of goods as may be specified in the notification, or that the tax on such sales shall be calculated at such lower rates than those specified in sub-section (1) [* * *]³⁴ as may be mentioned in the notification;
- (b) that in respect of all sales of goods or sales of such classes of goods as may be specified in the notification, which are made, in the course of inter-State trade or commerce, ³⁵[to a registered dealer[* * *]]³⁶, by any dealer having his place of business in the State or by any class of such dealers as may be specified in the notification to any person or to such class of persons as may be specified in the notification, no tax under this Act shall be payable or the tax on such sales shall be calculated at such lower rates than those specified in sub-section (1) [* * *]³⁷ as may be mentioned in the notification.

³⁸[³⁹(6) Notwithstanding anything contained in this section, no tax under this Act shall be payable by any dealer in respect of sale of any goods made by such dealer, in the course of inter-State trade or commerce to a registered dealer for the purpose of setting up, operation, maintenance, manufacture, trading, production, processing, assembling, repairing, reconditioning, re-engineering, packaging or for use as packing material or packing accessories in an unit located in any special economic zone or for development, operation and maintenance of special economic zone by the developer of the special economic zone, if such registered dealer has been authorised to establish such unit or to develop, operate and maintain such

31. *Ins.* by Act 20 of 2002, S. 152(v)(a) (w.e.f. 11-5-2002).

32. *Ins.* by Act 20 of 2002, S. 152(v)(b) (w.e.f. 11-5-2002).

33. *Omitted* by Act 16 of 2007, S. 4 (w.e.f. 1-4-2007).

34. *Omitted* by Act 16 of 2007, S. 4 (w.e.f. 1-4-2007).

35. *Ins.* by Act 20 of 2002, S. 152(v)(c) (w.e.f. 11-5-2002).

36. *Omitted* by Act 16 of 2007, S. 4 (w.e.f. 1-4-2007).

37. *Omitted* by Act 16 of 2007, S. 4 (w.e.f. 1-4-2007).

38. *Ins.* by Act 20 of 2002, S. 152(vi) (w.e.f. 11-5-2002).

39. *Subs.* by Act 23 of 2004, S. 118(a) (w.e.f. 10-9-2004).



special economic zone by the authority specified by the Central Government in this behalf.]

(7) The goods referred to in sub-section (6) shall be the goods of such class or classes of goods as specified in the certificate of registration of the registered dealer referred to in that sub-section.

(8) The provisions of sub-sections (6) and (7) shall not apply to any sale of goods made in the course of inter-State trade or commerce unless the dealer selling such goods furnishes to the ⁴⁰[prescribed authority referred to in sub-section (4)] a declaration in the prescribed manner on the prescribed form obtained from the authority specified by the Central Government under sub-section (6)] duly filled in and signed by the registered dealer to whom such goods are sold.

Explanation.—For the purposes of sub-section (6), the expression “special economic zone” has the meaning assigned to it in clause (iii) to *Explanation 2* to the proviso to Section 3 of the Central Excise Act, 1944 (1 of 1944).]

NOTIFICATION

Ministry of Home Affairs, Noti. No. S.O. 612(E), dated October 21, 1975, published in Gazette of India, Extra., Part II, Section 3(ii), dated 21st October, 1975, pp. 2355-56

Whereas the Central Government is satisfied that it is necessary so to do in the public interest;

Now, therefore, in exercise of the powers conferred by sub-section (5) of Section 8 of the Central Sales Tax Act, 1956 (74 of 1956), and in supersession of the notification of the Government of India in the Ministry of Home Affairs No. S.O. 524, dated the 13th February, 1967 (as subsequently amended), the Central Government hereby directs that in respect of the sales made from the Union Territory of Delhi on or after the 21st day of October, 1975, in the course of inter-State trade or commerce by any registered dealer having his place of business in that Union Territory, of any goods to which sub-section (1) of the said section applies [other than goods specified in the First Schedule to the Delhi Sales Tax Act, 1975 (43 of 1975)], the tax payable under the said sub-section (1) shall, subject to the conditions hereinafter specified, be calculated at the rate of two per cent of the turnover of the dealer.

CONDITIONS

(1) The sales are made to a registered dealer having his place of business outside the Union territory of Delhi.

(2) The sales relate to goods which are proved to the satisfaction of the appropriate sales tax authority to have been received in the Union territory of Delhi by a dealer registered in the said Union territory under the aforesaid Central Sales Tax Act (hereinafter referred to as the importing dealer), from his place of business in another State where he is registered under the sales tax law of that State in respect of such place of business, or from the place of business of his agent or principal in another State where such agent or principal is registered under the sales tax law of that State in respect of such place of business, and in respect of which the importing dealer furnishes a certificate containing the declaration in the form appended hereto that tax on the said goods has been paid or will be paid by him or his agent or his principal, as the case may be, under the sales tax law of the State wherefrom the goods were received, and which are exported by the importing dealer from the said Union Territory without undergoing any processing or change in identity.

Explanation.—For the purpose of paragraph (2), goods shall not be deemed to have undergone any processing or change in identity if, before their export from the Union Territory of Delhi, they are—

40. Subs. by Act 23 of 2004, S. 118(b) (w.e.f. 10-9-2004).

- (a) merely packed or repacked, provided such packing or repacking is not done under a trade name or mark; or
 (b) merely cleaned or sorted.

FORM OF CERTIFICATE

Certified that the goods sold by me in the course of inter-State trade or commerce vide Cash Memo/Bill No.....dated.....for Rs.....to..... having his place of business at **..... in..... State and whose Registration Certificate No. under the Central Sales Tax Act, 1956 in the aforesaid State is..... are the whole or part of the goods received by me.

*from my

*as an agent of.....(give name of principal) having his

*from my agent.....(give name of agent) having his place of business situated at**..... in..... (State) and in respect of such place of business.

*I am

*My principal aforesaid is registered in the said

*My agent aforesaid

State of vide Registration Certificate No..... valid with effect from.....

The goods have been sold by me without undergoing any processing or change in identity after they were received by me in the Union Territory of Delhi.

I also certify that tax on the above goods received by me in the Union Territory of Delhi *has been/*will be paid by

*me

*my principal aforesaid under the sales tax law of

*my agent aforesaid

..... (State) wherefrom the goods were received.

I am registered at Delhi under the Central Sales Tax Act, 1956 vide Registration Certificate No..... valid with effect from

*Strike out the entry not applicable.

**Give full and complete address of the place of business in the other State.

CASE LAW ► Nature.—Section 8(3) is not in pari materia with 5th proviso to Section 5(1) Orissa Sales Tax Act, 1947, *ICI India Ltd. v. State of Orissa*, (2007) 8 SCC 629.

► **Exemption.**—Exemption granted to "oil cake" vide CST Notification No. FD 119 CSL 2002(2) dt. 31-5-2002 is not extendible to "de-oiled cake", *Ravi Prakash Refineries (P) Ltd. v. State of Karnataka*, (2016) 12 SCC 193.

As per Notification dt. 4-9-1995, no sales tax is payable w.e.f 1-4-1988 on sale of goods during period of exemption that are manufactured in State of Haryana by any dealer who holds a valid exemption certificate under Rule 28-A of the Haryana General Sales Tax Rules, 1975. When r/w Rule 28-A(4)(c) this exemption is extended to all successive stages of sale and purchase in intra-State trade or commerce i.e within the State of Haryana. Such sales may be one or successive and tax at all stages is exempt. That is to say cumulative effect of notification r/w Rule 28-A(4)(c) is that it extends the benefit granted under Rule 28-A(2)(n)(ii) which relates to inter-State trade or commerce to intra-State sale or purchase. The exemption, therefore, is goods specific, subject of course to other conditions being satisfied, *Casio India Co. (P) Ltd. v. State of Haryana*, (2016) 6 SCC 209.

8-A. Determination of turnover.—(1) In determining the turnover of a dealer for the purposes of this Act, the following deduction shall be made from the aggregate of the sale prices, namely:—

(a) the amount arrived at by applying the following formula—

$$\frac{\text{rate of tax} \times \text{aggregation of sale prices}}{100 \text{ plus rate of tax}};$$

Provided that no deduction on the basis of the above formula shall be made if the amount by way of tax collected by a registered dealer, in accordance with the provisions of this Act, has been otherwise deducted from the aggregate of sale prices.

Explanation.—Where the turnover of a dealer is taxable at different rates, the aforesaid formula shall be applied separately in respect of each part of the turnover liable to a different rate of tax;

(b) the sale price of all goods returned to the dealer by the purchasers of such goods,—

(i) within a period of three months from the date of delivery of the goods, in the case of goods returned before the 14th day of May, 1966;

(ii) within a period of six months from the date of delivery of the goods, in the case of goods returned on or after the 14th day of May, 1966;

Provided that satisfactory evidence of such return of goods and of refund or adjustment in accounts of the sale price thereof is produced before the authority competent to assess or, as the case may be, re-assess the tax payable by the dealer under this Act; and

(c) such other deductions as the Central Government may, having regard to the prevalent market conditions, facility of trade and interest of consumers prescribe.

(2) Save as otherwise provided in sub-section (1), in determining the turnover of a dealer for the purposes of this Act, no deduction shall be made from the aggregate of the sale prices.

⁴¹[9. **Levy and collection of tax and penalties.**—(1) The tax payable by any dealer under this Act on sales of goods effected by him in the course of inter-State trade or commerce, whether such sales fall within clause (a) or clause (b) of Section 3, shall be levied by the Government of India, and the tax so levied shall be collected by that Government in accordance with the provisions of sub-section (2), in the State from which the movement of the goods commenced:

⁴²[Provided that, in the case of a sale of goods during their movement from one State to another, being a sale subsequent to the first sale in respect of the same goods and being also a sale which does not fall within sub-section (2) of Section 6, the tax shall be levied and collected—

- (a) where such subsequent sale has been effected by a registered dealer, in the State from which the registered dealer obtained or, as the case may be, could have obtained, the form prescribed for the purposes of ⁴³[sub-section (4) of Section 8] in connection with the purchase of such goods, and
- (b) which were such subsequent sale has been effected by an unregistered dealer, in the State from which such subsequent sale has been effected.]

(2) Subject to the other provisions of this Act and the rules made thereunder, the authorities for the time being empowered to assess, re-assess, collect and enforce payment of any tax under the general sales tax law of the appropriate State shall, on behalf of the Government of India, assess, re-assess, collect and enforce payment of tax, including any ⁴⁴[interest or] penalty, payable by a dealer under this Act as if the tax or ⁴⁵[interest or] penalty payable by such a dealer under this Act is a tax or ⁴⁶[interest or] penalty payable under the general sales tax law of the State; and for this purpose they may exercise all or any of the powers they have under the general sales tax law of the State; and the provisions of such law, including provisions relating to returns, provisional assessment, advance payment of tax, registration of the transferee of any business, imposition of the tax liability of a person carrying on business on the transferee of, or successor to, such business, transfer of liability of any firm or Hindu undivided family to pay tax in the event of the dissolution of such firm or partition of such family, recovery of tax from third parties, appeals, reviews, revisions, references, refunds, rebates, penalties, ⁴⁷[charging or payment of interest], compounding of offences and treatment of documents furnished by a dealer as confidential, shall apply accordingly:

41. See Section 9 (Validation) of Act 103 of 1976 and Section 120 (Validation) of Act 10 of 2000 given in the Appendix I.

42. Subs. by Act 103 of 1976, S. 6(a) (w.e.f. 7-9-1976).

43. Subs. by Act 16 of 2007, S. 5 (w.e.f. 1-4-2007).

44. Ins. by Act 10 of 2000, S. 119(a) (w.e.f. 12-5-2000).

45. Ins. by Act 10 of 2000, S. 119(a) (w.e.f. 12-5-2000).

46. Ins. by Act 10 of 2000, S. 119(a) (w.e.f. 12-5-2000).

47. Ins. by Act 103 of 1976, S. 6(b) (w.e.f. 5-1-1957).

Provided that if in any State or part thereof there is no general sales tax law in force, the Central Government may, by rules made in this behalf make necessary provision for all or any of the matters specified in this sub-section.

⁴⁸[(2-A) All the provisions relating to offences ⁴⁹[, interest] and penalties (including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment for an offence but excluding the provisions relating to matters provided for in Sections 10 and 10-A) of the general sales tax law of each State shall, with necessary modifications, apply in relation to the assessment, re-assessment, collection and the enforcement of payment of any tax required to be collected under this Act in such State or in relation to any process connected with such assessment, re-assessment, collection or enforcement of payment as if the tax under this Act were a tax under such sales tax law.

⁵⁰[(2-B) If the tax payable by any dealer under this Act is not paid in time, the dealer shall be liable to pay interest for delayed payment of such tax and all the provisions for delayed payment of such tax and all the provisions relating to due date for payment of tax, rate of interest for delayed payment of tax and assessment and collection of interest for delayed payment of tax, of the general sales tax law of each State, shall apply in relation to due date for payment of tax, rate of interest for delayed payment of tax, and assessment and collection of interest for delayed payment of tax under this Act in such States as if the tax and the interest payable under this Act were a tax and an interest under such sales tax law.]

(3) The proceeds in any financial year of any tax, including any ⁵¹[interest or] penalty, levied and collected under this Act in any State (other than Union Territory) on behalf of the Government of India shall be assigned to that State and shall be retained by it; and the proceeds attributable to Union Territories shall form part of the Consolidated Fund of India.

CASE LAW ► Object and purpose.—The object of Section 9(1) is twofold. Firstly, it provides that the tax on inter-State sales under Section 3(a) shall be levied by the Government of India and collected by the State Government from which the movement of goods commenced. Secondly, it specifies the appropriate State competent to levy tax on second and subsequent sales made during the movement of goods from one State to another as also the authority, where such second and subsequent sales are exigible to tax, *A & G Projects & Technologies Ltd. v. State of Karnataka*, (2009) 2 SCC 326.

Multi-point taxation in statutory scheme/object of Sections 9(1) and 6(2) is permissible where conditions for single point taxation are not met as in case of Section 6(1), *A & G Projects & Technologies Ltd. v. State of Karnataka*, (2009) 2 SCC 326.

► **Levy of tax.**—When the question arises, in which State tax is leviable for intra-State sale or inter-State sale Section 9(1) test is to be applied. No other provision is relevant to this question, *Zunaid Enterprises v. State of M.P.*, (2012) 4 SCC 211.

48. Ins. by Act 103 of 1976, S. 6(c) (w.e.f. 7-9-1976).

49. Ins. by Act 10 of 2000, S. 119(b) (w.e.f. 12-5-2000).

50. Ins. by Act 10 of 2000, S. 119(c) (w.e.f. 12-5-2000).

51. Ins. by Act 10 of 2000, S. 119(d) (w.e.f. 12-5-2000).

► **Power to levy taxes.**—Tax legislation is controlled by Constitution. Tax entry and general entry are separately dealt with. Power to levy taxes cannot be deduced from a general legislative entry. There is complete separation of taxing powers of Parliament and State Legislatures without any overlapping. Limitations on power to levy taxes must be express, as any limitation on sovereign power must be express, *Jindal Stainless Ltd. v. State of Haryana*, (2017) 12 SCC 1.

So long as taxes are non-discriminatory and, therefore, consistent with Article 304(a), there is no limitation, leave alone any express limitation on the States' legislative power to levy any tax on the import of goods from another State. State Legislatures are free to levy taxes including entry taxes, that are non-discriminatory in nature. Thus, further held direct and immediate effect test not applicable. Taxes compliant with Article 304(a), which would thus not be restrictions on Article 301 freedom. Taxing statutes can be challenged on settled grounds such as violation of Part III/Article 14 of the Constitution, or absence of legislative competence, etc., *Jindal Stainless Ltd. v. State of Haryana*, (2017) 12 SCC 1.

► **Validity of Levy of penalty.**—Levy of penalties with retrospective effect, not violative of Article 19(1)(f) and (g), *Shiv Dutt Rai Fateh Chand v. Union of India*, (1983) 3 SCC 529.

► **Nature of sale.**—Question that whether Transaction/Sale is an inter-State sale or intra-State sale is essentially a question of fact to be determined by authorities under the Act concerned and should not be entertained, *Zunaid Enterprises v. State of M.P.*, (2012) 4 SCC 211.

► **Appropriate authority.**—Sales Tax Officer in the importing State is not the appropriate authority, *State of U.P. v. Kasturi Lal Har Lal*, 1988 Supp SCC 302.

9-A. Collection of tax to be only by registered dealers.—No person who is not a registered dealer shall collect in respect of any sale by him of goods in the course of inter-State trade or commerce any amount by way of tax under this Act, and no registered dealer shall make any such collection except in accordance with this Act and the rules made thereunder.

9-B. Rounding off of tax, etc.—The amount of tax, interest, penalty, fine or any other sum payable, and the amount of refund due, under the provisions of this Act shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored:

Provided that nothing in this section shall apply for the purpose of collection by a dealer of any amount by way of tax under this Act in respect of sale by him of goods in the course of inter-State trade or commerce.

10. Penalties.—If any person—

- (a) furnishes a ⁵²[* * *] declaration under sub-section (2) of Section 6 or sub-section (1) of Section 6-A or sub-section (4) ⁵³[or sub-section (8)] of Section 8, which he knows, or has reason to believe, to be false; or

52. The words "certificate or" omitted by Act of 16 of 2007, S. 6 (w.e.f. 1-4-2007).

53. Ins. by Act 20 of 2002, S. 153(i) (w.e.f. 11-5-2002).

- (aa) fails to get himself registered as required by Section 7, or fails to comply with an order under sub-section (3-A) or with the requirements of sub-section (3-C) or sub-section (3-E), of that section;
- (b) being a registered dealer, falsely represents when purchasing any class of goods that goods of such class are covered by his certificate of registration; or
- (c) not being a registered dealer, falsely represents when purchasing goods in the course of inter-State trade or commerce that he is a registered dealer; or
- (d) after purchasing any goods for any of the purposes specified in clause (b) or clause (c) or clause (d) of sub-section (3) ⁵⁴[or sub-section (6)] of Section 8 fails, without reasonable excuse, to make use of the goods for any such purpose;
- (e) has in his possession any form prescribed for the purpose of sub-section (4) ⁵⁵[or sub-section (8)] of Section 8 which has not been obtained by him or by his principal or by his agent in accordance with the provisions of this Act or any rules made thereunder;
- (f) collects any amount by way of tax in contravention of the provisions contained in Section 9-A;

he shall be punishable with simple imprisonment which may extend to six months, or with fine, or with both; and when the offence is a continuing offence, with a daily fine which may extend to fifty rupees for every day during which the offence continues.

CASE LAW ► Interpretation/Construction.—Expression “Falsely represents” in Section 10(b) takes in guilty mind and deliberate action in defiance of law. Hence, a finding of mens rea is a condition precedent for levying penalty under Section 10(b) r/w Section 10-A, *CST v. Sanjiv Fabrics*, (2010) 9 SCC 630.

► Violations under this section.—Violations enumerated in clauses (b), (c) and (d) of Section 10 may not necessarily result in prosecution with possible imposition of sentence of imprisonment, as alternative of imposition of penalty is provided in respect of these violations under Section 10-A, *CST v. Sanjiv Fabrics*, (2010) 9 SCC 630.

10-A. Imposition of penalty in lieu of prosecution.—(1) If any person purchasing goods is guilty of an offence under clause (b) or clause (c) or clause (d) of Section 10, the authority who granted to him or, as the case may be, is competent to grant to him a certificate of registration under this Act, may, after giving him a reasonable opportunity of being heard, by order in writing, impose upon him by way of penalty a sum not exceeding one-and-a-half times the tax which would have been levied under sub-section (2) of Section 8 in respect of the sale to him of the goods, if the sale had been a sale falling within that sub-section:

Provided that no prosecution for an offence under Section 10 shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

54. Ins. by Act 20 of 2002, S. 153(ii) (w.e.f. 11-5-2002).

55. Ins. by Act 20 of 2002, S. 153(iii) (w.e.f. 11-5-2002).

(2) The penalty imposed upon any dealer under sub-section (1) shall be collected by the Government of India in the manner provided in sub-section (2) of Section 9—

- (a) in the case of an offence falling under clause (b) or clause (d) of Section 10, in the State in which the person purchasing the goods obtained the form prescribed for the purposes of ⁵⁶[sub-section (4) of Section 8] in connection with the purchase of such goods;
- (b) in the case of an offence falling under clause (c) of Section 10, in the State in which the person purchasing the goods should have registered himself if the offence had not been committed.

11. Cognizance of offences.—(1) No Court shall take cognizance of any offence punishable under this Act or the rules made thereunder except with the previous sanction of the Government within the local limits of whose jurisdiction the offence has been committed or of such officer of that Government as it may, by general or special order, specify in this behalf; and no court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any such offence.

(2) All offences punishable under this Act shall be cognizable and bailable.

12. Indemnity.—No suit, prosecution or other legal proceeding shall lie against any officer of Government for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

13. Power to make rules.—(1) The Central Government may, by notification in the Official Gazette, make rules providing for—

- (a) the manner in which applications for registration may be made under this Act, the particulars to be contained therein, the procedure for the grant of such registration, the circumstances in which registration may be refused and the form in which the certificate of registration may be given;
- ⁵⁷[(aa) the manner of determination of the sale price and the deductions from the total consideration for a works contract under the proviso to clause (h) of Section 2;]
- ⁵⁸[⁵⁹[(ab)]the form and the manner for furnishing declaration under sub-section (8) of Section 8;]
- (b) the period of turnover, the manner in which the turnover in relation to the sale of any goods under this Act shall be determined, and the deductions, which may be made under clause (c) of sub-section (1) of Section 8-A in the process of such determination;
- (c) the cases and circumstances in which, and the conditions subject to which, any registration granted under this Act may be cancelled;

56. Subs. by Act 16 of 2007, S. 7 (w.e.f. 1-4-2007).

57. Ins. by Act 103 of 1976, S. 92 (w.e.f. 13-5-2005).

58. Ins. by Act 20 of 2002, S. 154 (w.e.f. 11-5-2002).

59. Clause (aa) relettered as clause (ab) by Act 103 of 1976, S. 92 (w.e.f. 13-5-2005).

- (d) the form in which and the particulars to be contained in any declaration or certificate to be given under this Act, the State of origin of such form or certificate and the time within which any such certificate or declaration shall be produced or furnished;
- (e) the enumeration of goods or class of goods used in the manufacture or processing of goods for sale or in mining or in the generation or distribution of electricity or any other form of power;
- (f) the matters in respect of which provision may be made under the proviso to sub-section (2) of Section 9;
- (g) the fees payable in respect of applications under this Act;
- ⁶⁰[(h) the proper functioning of the Authority constituted under Section 19;
- (i) the salaries and allowances payable to, and the terms and conditions of service of, the Chairman and Members under sub-section (3) of Section 19;
- (j) any other matter as may be prescribed.]

(2) Every rule made by the Central Government under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(3) The State Government may make rules, not inconsistent with the provisions of this Act and the rules made under sub-section (1), to carry out the purposes of this Act.

(4) In particular and without prejudice to the powers conferred by sub-section (3), the State Government may make rules for all or any of the following purposes, namely:—

- (a) the publication of lists of registered dealers, of the amendments made in such lists from time to time, and the particulars to be contained in such lists;
- (aa) the manner in which security may be furnished under sub-section (2-B) or sub-section (3-A) or sub-section (3-C) of Section 7 and the manner in which and the time within which any deficiency may be made up under sub-section (3) of that section;
- (b) the form and manner in which accounts relating to sales in the course of inter-State trade or commerce shall be kept by registered dealers;
- (c) the furnishing of any information relating to the stocks of goods of, purchases, sales and deliveries of goods by, any dealer or any other

60. *Ins.* by Act 41 of 2001, S. 2 (w.e.f. 17-3-2005).

- information relating to his business as may be necessary for the purposes of this Act;
- (d) the inspection of any books, accounts or documents required to be kept under this Act, the entry into any premises at all reasonable times for the purposes of searching for any such books, accounts or documents kept or suspected to be kept in such premises and the seizure of such books, accounts or documents;
 - (e) the authority from whom, the conditions subject to which and the fees subject to payment of which any form of certificate prescribed under clause (a) of the first proviso to sub-section (2) of Section 6 or of declaration prescribed under sub-section (1) of Section 6-A or sub-section (4) of Section 8 may be obtained, the manner in which such forms shall be kept in custody and records relating thereto maintained and the manner in which any such form may be used and any such certificate or declaration may be furnished;
 - (ee) the form and manner in which, and the authority to whom, an appeal may be preferred under sub-section (3-H) of Section 7, the procedure to be followed in hearing such appeals and the fees payable in respect of such appeals;
 - (f) in the case of an undivided Hindu family, association, club, society, firm or company or in the case of a person who carries on business as a guardian or trustee or otherwise on behalf of another person, the furnishing of a declaration stating the name of the person who shall be deemed to be the manager in relation to the business of the dealer in the State and the form in which such declaration may be given;
 - (g) the time within which, the manner in which and the authorities to whom any change in the ownership of any business or in the name, place or nature of any business carried on by any dealer shall be furnished.

(5) In making any rule under this section the Central Government or, as the case may be, the State Government may direct that a breach thereof shall be punishable with fine which may extend to five hundred rupees and when the offence is a continuing offence, with a daily fine which may extend to fifty rupees for every day during which the offence continues.

CASE LAW ► Nature and scope.—Section 13(1) is an enabling provision and not an obligatory one, *Mahim Patram (P) Ltd. v. Union of India*, (2007) 3 SCC 668.

► Effect of amendment to Section 2(h).—Amendments to Sections 2(h) and 13 by Finance Act, 2005 are not retrospective in operation, *Mahim Patram (P) Ltd. v. Union of India*, (2007) 3 SCC 668.

CHAPTER IV
GOODS OF SPECIAL IMPORTANCE IN INTER-STATE
TRADE OR COMMERCE

14. Certain goods to be of special importance in inter-State trade or commerce.—⁶¹[* * *]

61. *Omitted by Act 18 of 2017, S. 14 (w.e.f. 1-7-2017). Prior to omission it read as:*

“14. Certain goods to be of special importance in inter-State trade or commerce.—It is hereby declared that the following goods are of special importance in inter-State trade or commerce:—

- (i) cereals, that is to say,—
- (i) paddy (*Oryza sativa* L.);
- (ii) rice (*Oryza sativa* L.);
- (iii) wheat (*Triticum vulgare*, *T. compactum*, *T. sphaerococcum*, *T. durum*, *T. aestivum* L., *T. dicoccum*);
- (iv) jowar or milo (*Sorghum vulgare* Pers);
- (v) bajra (*Pennisetum typhoideum* L.);
- (va) liquefied petroleum gas for domestic use;
- (vi) maize (*Zea mays*, D.);
- (vii) ragi (*Eleusine coracana* Gaertn.);
- (viii) kodon (*Paspalum scrobiculatum* L.);
- (ix) [* * *]
- (x) barely (*Hordeum vulgare* L.);
- (i-a) coal, including coke in all its forms, but excluding charcoal:

Provided that during the period commencing on the 23rd day of February, 1967 and ending with the date of commencement of Section 11 of the Central Sales Tax (Amendment) Act, 1972 (61 of 1972), this clause shall have effect subject to the modification that the words “but excluding charcoal” shall be omitted;

- (ii) cotton, that is to say, all kinds of cotton (indigenous or imported) in its unmanufactured state, whether ginned or unginned, baled, pressed or otherwise, but not including cotton waste;
- (ii-a) cotton fabrics covered under heading Nos. 52.05, 52.06, 52.07, 52.08, 52.09, 52.10, 52.11, 52.12, 58.01, 58.02, 58.03, 58.04, 58.05, 58.06, 59.01, 59.03, 59.05, 59.06 and 60.01, of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);
- (ii-b) cotton yarn, but not including cotton yarn waste;
- (ii-c) crude oil, that is to say, crude petroleum oils and crude oils obtained from bituminous minerals (such as shale, calcareous rock, sand) whatever their composition, whether obtained from normal or condensation oil-deposits or by the destructive distillation of bituminous minerals and whether or not subjected to all or any of the following processes:—
 - (1) decantation;
 - (2) de-salting;
 - (3) dehydration;
 - (4) stabilisation in order to normalise the vapour pressure;
 - (5) elimination of very light fractions with a view to returning them to the oil deposits in order to improve the drainage and maintain the pressure;
 - (6) the addition of only those hydrocarbons previously recovered by physical methods during the course of the above-mentioned processes;
 - (7) any other minor process (including addition of pour point depressants or flow improvers) which does not change the essential character of the substance;
- (ii-d) Aviation Turbine Fuel sold to an aircraft with a maximum take-off mass of less than forty thousand kilograms operated by scheduled airlines.

Explanation.—For the purposes of this clause, “scheduled airlines” means the airlines which have been permitted by the Central Government to operate any scheduled air transport service.

- (iii) hides and skins, whether in a raw or dressed state;
- (iv) iron and steel, that is to say,—
- (i) pig iron, sponge iron and cast iron including ingot moulds, bottom plates, iron scrap, cast iron scrap, runner scrap and iron skull scrap;
- (ii) steel semis (ingots, slabs, blooms and billets of all qualities, shapes and sizes);
- (iii) skelp bars, tin bars, sheet bar, hoe-bars and sleeper bars;

- (iv) steel bars (rounds, rods, squares, flats, octagons and hexagons, plain and ribbed or twisted, in coil form as well as straight lengths);
- (v) steel structurals (angles, joists, channels, tees, sheet piling sections, Z sections or any other rolled sections);
- (vi) sheets, hoops, strips and skelps, both black and galvanised, hot and cold rolled, plain and corrugated, in all qualities, in straight lengths and in coil form, as rolled and in rivetted conditions;
- (vii) plates both plain and chequered in all qualities;
- (viii) discs, rings, forgings and steel castings;
- (ix) tool, alloy and special steels of any of the above categories;
- (x) steel melting scrap in all forms including steel skull, turnings and borings;
- (xi) steel tubes, both welded and seamless, of all diameters and lengths, including tube fittings;
- (xii) tin-plates, both hot dipped and electrolytic and tinfree plates;
- (xiii) fish plate bars, bearing plate bars, crossing sleeper bars, fish plates, bearing plates, crossing sleepers and pressed steel sleepers, rails—heavy and light crane rails;
- (xiv) wheels, tyres, axles and wheel sets;
- (xv) wire rods and wires—rolled, drawn, galvanised, aluminised, tinned or coated such as by copper;
- (xvi) defectives, rejects, cuttings or end pieces of any of the above categories;
- (v) jute, that is to say, the fibre extracted from plants belonging to the species *Corchorus Capsularis* and *Corchorus olitorius* and the fibre known as masta or bimli extracted from plants of the species *Hibiscus Cannabinus* and *Hibiscus Sabdariffa*—*Var altissima* and the fibre known as *Sunn* or *Sunn-hemp* extracted from plants of the species *Crotalaria juncea* whether baled or otherwise;
- (vi) Oilseeds, that is to say,—
 - (i) Groundnut or Peanut (*Arachis hypogaea*);
 - (ii) Sesamum or Til (*Sesamum orientale*);
 - (iii) Cotton seeds (*Gossypius Spp.*);
 - (iv) Soyabean (*Glycine seja*);
 - (v) Rapeseed and Mustard—
 - (1) Torea (*Brassica compestris* var *toria*);
 - (2) Rai (*Brassica juncea*);
 - (3) Jamba-Taramira (*Eruca Satiya*);
 - (4) Sarson, yellow and brown (*Brassica compestris* var *sarson*);
 - (5) Banarsi Rai or True Mustard (*Brassica nigra*);
 - (vi) Linseed (*Linum usitatissimum*);
 - (vii) Castor (*Ricinus communis*);
 - (viii) Coconut (i.e., Copra excluding tender coconuts) (*Cocos nucifera*);
 - (ix) Sunflower (*Helianthus annus*);
 - (x) Nigar seed (*Guizotia abyssinica*);
 - (xi) Neem, vepa (*Azadirachta indica*);
 - (xii) Mahua, illupai, Ippe (*Madhuca indica* M. *Latifolia* *Bassia Latifolia* and *Madhuca longifolia* syn. M. *Longifolia*);
 - (xiii) Karanja, Pongam, Honga (*Pongamia pinnata* syn. P. *Glabra*);
 - (xiv) Kusum (*Schleichera oleosa* syn. S. *Trijuga*);
 - (xv) Punna, Undi (*Calophyllum inophyllum*);
 - (xvi) Kokum (*Carcinia indica*);
 - (xvii) Sal (*Shorea robusta*);
 - (xviii) Tung (*Aleurites fordii* and A. *moantana*);
 - (xix) Red palm (*Elaeis guinensis*);
 - (xx) Safflower (*Carthamus tinctorius*);
- (vi-a) pulses, that is to say,—
 - (i) gram or gulab gram (*Cicerarietinum* L.);
 - (ii) tur or arhar (*Cajanus cajan*);
 - (iii) moong or green gram (*Phaseolus aureus*);
 - (iv) masur or lentil (*Lens esculenta* Moench, *Lens culinaris* Medic);
 - (v) urad or black gram (*Phaseolus mungo*);
 - (vi) moth (*Phaseolus aconitifolius* Facq);
 - (vii) lakh or khesari (*Lathyrus sativus* L.)

CASE LAW ▶ Declared goods works.—Where commercial goods, without change of their identity as such goods, are merely subjected to some processing or finishing or are merely joined together, they may remain commercially the goods which cannot be taxed again, in a series of sales, so long as they retain their identity as goods of a particular type, *B. Narasamma v. CCT*, (2016) 15 SCC 167.

▶ **Works contract.**—Taxation of works contract by States, held subject to requirements of Article 286(3) of the Constitution r/w Section 15 of the Central Sales Tax Act, namely, the same would be chargeable at a single point and at a rate not exceeding 4% at the relevant time, *B. Narasamma v. CCT*, (2016) 15 SCC 167.

15. Restrictions and conditions in regard to tax on sale or purchase of declared goods within a State.—⁶²[* * *]

CASE LAW ▶ Goods used in works contract.—Declared goods involved in the execution of a works contract are taxable at the rates mentioned in Section 15 of the CST Act while all other goods involved in the execution of a works contract are taxable at the rate prescribed in the Sixth Schedule upon the amendment

- (vii) man-made fabrics covered under heading Nos. 54.08, 54.09, 54.10, 54.11, 54.12, 55.07, 55.08, 55.09, 55.10, 55.11, 55.12, 58.01, 58.02, 58.03, 58.04, 58.05, 58.06, 59.01, 59.02, 59.03, 59.05, 59.06, and 60.01 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);
- (viii) sugar covered under sub-heading Nos. 1701.20, 1701.31, 1701.39 and 1702.11 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);
- (ix) unmanufactured tobacco and tobacco refuse covered under sub-heading No. 2401.00, cigars and cheroots of tobacco covered under heading No. 24.02, cigarettes and cigarillos of tobacco covered under sub-heading Nos. 2403.11 and 2403.21, and other manufactured tobacco covered under sub-heading Nos. 2404.11, 2404.12, 2404.13, 2404.19, 2404.21, 2404.29, 2404.31, 2404.39, 2404.41, 2404.50 and 2404.60, of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);
- (x) woven fabrics of wool covered under heading Nos. 51.06, 51.07, 58.01, 58.02, 58.03 and 58.05 of the Schedule to the Central Excise Tariff Act, 1985 (5 of 1986).
- (xi) [Omitted]”.

62. Omitted by Act 18 of 2017, S. 15 (w.e.f. 1-7-2017). Prior to omission it read as:

“15. *Restrictions and conditions in regard to tax on sale or purchase of declared goods within a State.*—Every sales tax law of State shall, in so far as it imposes or authorises the imposition of a tax on the sale or purchase of declared goods, be subject to the following restrictions and conditions, namely:—

- (a) the tax payable under that law in respect of any sale or purchase of such goods inside the State shall not exceed five per cent of the sale or purchase price thereof;
- (b) where a tax has been levied under that law in respect of the sale or purchase inside the State of any declared goods and such goods are sold in the course of inter-State trade or commerce, and tax has been paid under this Act in respect of the sale of such goods in the course of inter-State trade or commerce, the tax levied under such law shall be reimbursed to the person making such sale in the course of inter-State trade or commerce in such manner and subject to such conditions as may be provided in any law in force in that State;
- (c) where a tax has been levied under that law in respect of the sale or purchase inside the State of any paddy referred to in sub-clause (i) of clause (i) of Section 14, the tax leviable on rice procured out of such paddy shall be reduced by the amount of tax levied on such paddy;
- (c-a) where a tax on sale or purchase of paddy referred to in sub-clause (i) of clause (i) of Section 14 is leviable under that law and the rice procured out of such paddy is exported out of India, then, for the purposes of sub-section (3) of Section 5, the paddy and rice shall be treated as a single commodity;
- (d) each of the pulses referred to in clause (vi-a) of Section 14, whether whole or separated, and whether with or without husk, shall be treated as a single commodity for the purposes of levy of tax under that law.”.

of 1-4-2006 i.e. when Section 4(1)(c) was introduced by an amendment into the Karnataka Value Added Tax Act, 2003, *State of Karnataka v. Durga Projects Inc.*, (2018) 4 SCC 633.

CHAPTER V LIABILITY IN SPECIAL CASES

16. Definitions.—In this Chapter,—

- (a) “appropriate authority”, in relation to a company, means the authority competent to assess tax on the company;
- (b) “company” and “private company” have the meanings respectively assigned to them by clauses (i) and (iii) of sub-section (1) of Section 3 of the Companies Act, 1956 (1 of 1956).

17. Company in liquidation.—(1) Every person—

- (a) who is the liquidator of any company which is being wound up, whether under the orders of a court or otherwise; or
- (b) who has been appointed the receiver of any assets of a company, (hereinafter referred to as the liquidator) shall, within thirty days after he has become such liquidator, give notice of his appointment as such to the appropriate authority.

(2) The appropriate authority shall, after making such inquiry or calling for such information as it may deem fit, notify to the liquidator within three months from the date on which he receives notice of the appointment of the liquidator the amount which, in the opinion of the appropriate authority would be sufficient to provide for any tax which is then, or is likely thereafter to become, payable by the company.

(3) The liquidator shall not part with any of the assets of the company or the properties in his hands until he has been notified by the appropriate authority under sub-section (2) and on being so notified, shall set aside an amount equal to the amount notified and, until he so sets aside such amount, shall not part with any of the assets of the company or the properties in his hands:

Provided that nothing contained in this sub-section shall debar the liquidator from parting with such assets or properties in compliance with any order of a court or for the purpose of the payment of the tax payable by the company under this Act or for making any payment to secured creditors whose debts are entitled under law to priority of payment over debts due to Government on the date of liquidation or for meeting such costs and expenses of the winding up of the company as are in the opinion of the appropriate authority reasonable.

(4) If the liquidator fails to give the notice in accordance with sub-section (1) or fails to set aside the amount as required by, or parts with any of the assets of the company or the properties in his hands in contravention of the provisions of sub-section (3), he shall be personally liable for the payment of the tax which the company would be liable to pay:

Provided that if the amount of any tax payable by the company is notified under sub-section (2), the personal liability of the liquidator under this sub-section shall be to the extent of such amount.

(5) Where there are more liquidators than one, the obligations and liabilities attached to the liquidator under this section shall attach to all the liquidators jointly and severally.

(6) The provisions of this section shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force.

18. Liability of directors of private company in liquidation.—Notwithstanding anything contained in the Companies Act, 1956 (1 of 1956), when any private company is wound up after the commencement of this Act,

and any tax assessed on the company under this Act for any period, whether before or in the course of or after its liquidation, cannot be recovered, then, every person who was a director of the private company at any time during the period for which the tax is due shall be jointly and severally liable for the payment of such tax unless he proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the company.

⁶³[CHAPTER V-A

APPEALS TO THE HIGHEST APPELLATE AUTHORITY OF THE STATE

18-A. Appeals to highest appellate authority of State.—(1) Notwithstanding anything contained in a State Act, any person aggrieved by an order made by the assessing authority under sub-section (2) of Section 6-A, or an order made under the provisions of sub-section (3) of that section, may, notwithstanding anything contained in the general sales tax law of the appropriate State, prefer an appeal to the highest appellate authority of the State against such order:

Provided that any incidental issues including the rate of tax, computation of assessable turnover and penalty may be raised in such appeal.

(2) An appeal under sub-section (1) shall be filed within sixty days from the date on which the order referred to in that sub-section is communicated to the aggrieved person:

Provided that any appeal forwarded by the highest appellate authority of a State to the first appellate authority under the proviso to sub-section (2) of Section 25 and pending before such authority immediately before the appointed day shall be transferred, on such appointed day, to the highest appellate authority of the State and the same shall be treated as an appeal filed under sub-section (1) and dealt with accordingly.

Explanation.—For the purposes of this sub-section, “appointed day” means such date as the Central Government may, by notification in the Official Gazette, appoint.

63. Ins. by Act 14 of 2010, S. 79 (w.e.f. 8-5-2010).

NOTIFICATIONS

*Ministry of Finance (Deptt. of Revenue), Noti. No. G.S.R. 455(E), dated May 28, 2010,
published in the Gazette of India, Extra., Part II, Section 3(i),
dated 28th May, 2010, p. 1, No. 296*

In exercise of the powers conferred by Explanation to sub-section (2) of Section 18-A of the Central Sales Tax Act, 1956 (74 of 1956), the Central Government hereby appoints the 1st June, 2010 as the appointed day for the purposes of the said sub-section (2) of Section 18-A of the said Act.

(3) The highest appellate authority of a State may, after giving both the parties an opportunity of being heard, pass appropriate order.

(4) The highest appellate authority of the State may, as far as practicable, hear and decide such appeal within a period of six months from the date of filing of the appeal.

(5) Notwithstanding anything contained in a State Act, the highest appellate authority of a State may, on the application of the appellant and after considering relevant facts, including the deposit of any amount towards local or Central Sales Tax in other States on the same goods, pass an order of stay subject to such terms and conditions as it thinks fit, and such order may, inter alia, indicate the portion of tax as assessed, to be deposited prior to admission of the appeal.

Explanation.—For the purposes of this section and Sections 20, 21, 22 and 25 “highest appellate authority of a State”, with its grammatical variations, means any authority or Tribunal or court, except the High Court, established or constituted under the general sales tax law of a State, by whatever name called.]

⁶⁴[CHAPTER VIAUTHORITY TO SETTLE DISPUTES IN COURSE OF
INTER-STATE TRADE OR COMMERCE

⁶⁵[**19. Customs, Excise and Service Tax Appellate Tribunal to function as Authority under this Act.**—Notwithstanding anything to the contrary contained

64. *Ins.* by Act 41 of 2001, S. 3 (w.e.f. 17-3-2005).

65. *Subs.* by Act 8 of 2023, S. 168 (w.e.f. 31-3-2023). Prior to substitution it read as:

“19. *Central Sales Tax Appellate Authority.*—(1) The Central Government shall constitute, by notification in the Official Gazette, an Authority to settle inter-State disputes falling under Section 6-A read with Section 9 of this Act, to be known as “the Central Sales Tax Appellate Authority (hereinafter referred to as the Authority)”.

(2) The Authority shall consist of the following Members appointed by the Central Government, namely:—

- (a) a Chairman, who is a retired Judge of the Supreme Court, or a retired Chief Justice of a High Court;
- (b) an officer of the Indian Legal Service who is, or is qualified to be, an Additional Secretary to the Government of India; and
- (c) an officer of a State Government not below the rank of Secretary or an officer of the Central Government not below the rank of Additional Secretary, who is an expert in sales tax matters.

(2-A) Notwithstanding anything contained in sub-section (2), the Chairman or a Member holding a post as such in the Authority for Advance Rulings appointed under clause (a) or clause (c), as the case may be, of sub-section (2) of Section 245-O of the Income Tax Act, 1961 (43 of 1961) may, in addition to his being the Chairman or a Member of that Authority, be appointed as the Chairman or a Member, as the case may be, of the Authority under this Act.

in this Act or in any other law for the time being in force, the Customs, Excise and Service Tax Appellate Tribunal constituted under Section 129 of the Customs Act, 1962 (52 of 1962) shall be the Authority under this Act to settle inter-State disputes falling under Sections 6-A and 9.]

⁶⁶[**19-A. Vacancies etc., not to invalidate proceedings.**—No proceeding before the Authority shall be questioned or shall be invalid on the ground merely of the existence of any vacancy or defect in the constitution of the Authority.]

⁶⁷[**20. Appeals.**—⁶⁸[(1) An appeal shall lie to the authority against any order passed by the highest appellate authority of a State under this Act determining issues relating to stock transfers or consignments of goods, insofar as they involve a dispute of inter-State nature.]

(2) Notwithstanding anything contained in the general sales tax law of a State, the Authority shall adjudicate an appeal filed under sub-section (1).

(3) An appeal under sub-section (1) may be filed within ninety days from the date on which the order referred to in that sub-section is served on any aggrieved person:

Provided that the Authority may entertain any appeal after the expiry of the said period of ninety days, but not later than one hundred and fifty days from the date of such service, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time:

Provided further that the Authority may entertain any appeal from an aggrieved person within sixty days from the commencement of the Central Sales Tax (Amendment) Act, 2005, where such aggrieved person had the right to file an appeal against the order of the highest appellate authority of the State under sub-section (1) as it stood immediately before the commencement of the said Act, but has not availed of the right to file the appeal during the period commencing on and from the 3rd day of December, 2001 and ending with the 16th day of March, 2005.

(4) The application shall be made in quadruplicate and be accompanied by a fee of five thousand rupees.]

21. Procedure on receipt of application.—(1) On receipt of an appeal, the Authority shall cause a copy thereof to be forwarded to the ⁶⁹[assessing authority concerned as well as to each State Government concerned with the appeal and to call upon them to furnish the relevant records:

Provided that such records shall, as soon as possible, be returned to the assessing authority or such State Government concerned, as the case may be.]

(3) The salaries and allowances payable to, and the terms and conditions of service of, the Chairman and Members shall be such as may be prescribed.

(4) The Central Government shall provide the Authority with such officers and staff as may be necessary for the efficient exercise of the powers of the Authority under this Act.”

66. *Ins.* by Act 3 of 2006, S. 3 (w.e.f. 1-3-2006).

67. *Subs.* by Act 3 of 2006, S. 4 (w.e.f. 1-3-2006).

68. *Subs.* by Act 14 of 2010, S. 80 (w.e.f. 8-5-2010).

69. *Subs.* by Act 32 of 2003, S. 164(a) (w.e.f. 14-5-2003).

(2) The Authority shall adjudicate and decide upon the appeal filed against an order of the ⁷⁰[highest appellate] authority.

(3) The Authority, after examining the appeal and the records called for, by order, either allow or reject the appeal:

Provided that no appeal shall be rejected unless an opportunity has been given to the appellant of being heard in person or through a duly authorised representative ⁷¹[, and also to ⁷²[each] State Government concerned with the appeal of being heard.]

Provided further that whether an appeal is rejected or accepted, reasons for such rejection or acceptance shall be given in the order.

(4) The Authority shall make an endeavour to pronounce its order in writing within six months of the receipt of the appeal.

(5) A copy of every order made under sub-section (3) shall be sent to the ⁷³[appellant, assessing authority, respondent and highest appellate authority of the State Government concerned].

22. Powers of the Authority.—(1) The Authority shall have the same powers as are vested in a court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely:—

- (a) enforcing the attendance of any person, examining him on oath or affirmation;
- (b) compelling the production of accounts and documents;
- (c) issuing commission for the examination of witnesses;
- (d) the reception of evidence on affidavits;
- (e) any other matter which may be prescribed.

⁷⁴[(1-A) The Authority may grant stay of the operation of the order of the highest appellate authority against which the appeal is filed before it or order the ⁷⁵[deposit] of the tax before entertaining the appeal and while granting such stay or making such order for the ⁷⁶[deposit] of the tax, the Authority shall have regard, if the assessee has made ⁷⁷[deposit] of the tax under the general sales tax law of the State concerned, to such ⁷⁸[deposit] or pass such appropriate order as it may deem fit.]

⁷⁹[(1-B) The authority may issue direction for refund of tax collected by a State which has been held by the authority to be not due to that State, or alternatively,

70. Subs. for "assessing" by Act 3 of 2006, S. 5 (w.e.f. 1-3-2006).

71. Ins. by Act 32 of 2003, S. 164(b) (w.e.f. 14-5-2003).

72. Subs. for "the" by Act 23 of 2004, S. 119(c) (w.e.f. 17-3-2005).

73. Subs. by Act 3 of 2006, S. 5 (w.e.f. 1-3-2006).

74. Subs. by Act 3 of 2006, S. 6 (w.e.f. 1-3-2006).

75. Subs. for "pre-deposit" by Act 14 of 2010, S. 81(a) (w.e.f. 8-5-2010).

76. Subs. for "pre-deposit" by Act 14 of 2010, S. 81(a).

77. Subs. for "pre-deposit" by Act 14 of 2010, S. 81(a).

78. Subs. for "pre-deposit" by Act 14 of 2010, S. 81(a).

79. Ins. by Act 14 of 2010, S. 81(b) (w.e.f. 8-5-2010).

direct that State to transfer the refundable amount to the State to which Central Sales Tax is due on the same transaction:

Provided that the amount of tax directed to be refunded by a State shall not exceed the amount of Central Sales Tax payable by the appellant on the same transaction.]

(2) Every proceeding before the Authority shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code, 1860 (45 of 1860) and the Authority shall be deemed to be a civil court for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

23. Procedure of the Authority.—The Authority shall, subject to the provisions of this chapter, have power to regulate its own procedure in all matters⁸⁰[, including stay of recovery of any demand] arising out of the exercise of powers under this Act.

24. Authority for Advance Rulings to function as the Authority under this Act.—⁸¹[* * *]

⁸²**[25. Transfer of pending proceedings.**—(1) On and from the commencement of the Central Sales Tax (Amendment) Act, 2005, all appeals (except appeals against orders of the highest appellate authority of the State) pending before the Authority notified under sub-section (1) of Section 24 shall stand transferred together with the records thereof to the highest appellate authority of the concerned State.

(2) Such highest appellate authority of the State to which such appeal has been transferred under sub-section (1) on receipt of such records shall proceed to deal with such appeal so far as may be in the same manner as in the case of an appeal filed before such highest appellate authority of the State according to the general sales tax law of the appropriate State, from the stage which was reached before such transfer or from any earlier stage or de novo as such highest appellate authority of the State may deem fit:

⁸³[* * *]]

80. *Ins.* by Act 32 of 2003, S. 165 (w.e.f. 14-5-2003).

81. *Omitted* by Act 8 of 2023, S. 169 (w.e.f. 31-3-2023). Prior to omission it read as:

“24. *Authority for Advance Rulings to function as the Authority under this Act.*—(1) Notwithstanding anything contained in any other law for the time being in force and in Section 19 of this Act, the Authority for Advance Rulings constituted under Section 245-O of the Income Tax Act, 1961 (43 of 1961), shall be notified by the Central Government in the Official Gazette, with such modifications as may be necessary, to make its composition in conformity with Section 19 of this Act, as the Authority under this Act till such time an Authority is constituted under that section.

(2) On and from the date of the constitution of the Authority in accordance with the provisions of Section 19 of this Act, the proceedings pending with the Authority for Advance Rulings shall stand transferred to the Authority constituted under that section from the stage at which such proceedings stood before the date of constitution of the said Authority.”

82. *Subs.* by Act 3 of 2006, S. 7 (w.e.f. 1-3-2006).

83. *Omitted* by Act 14 of 2010, S. 82 (w.e.f. 8-5-2010). Prior to omission it read as:

⁸⁴[(3) All appeals filed under Section 20 and pending before the erstwhile Authority for Advance Rulings as on the date on which the Finance Bill, 2023 receives the assent of the President shall stand transferred to the Authority referred to in Section 19.]

26. Applicability of order passed.—An order passed by the Authority under this chapter shall be binding on ⁸⁵[each State Government concerned] the assessing authorities and other authorities created by or under any law relating to general sales tax, in force for the time being in any State [* * *]⁸⁶.]

APPENDIX

CENTRAL SALES TAX AMENDMENT ACT, 1976

[Act 103 of 1976]

9. Validation.—(1) The provisions of Section 9 of the principal Act shall have effect, and shall be deemed always to have had effect, in relation to the period commencing on the 5th day of January, 1957, and ending with the date immediately preceding the date of commencement of this Act as if that section also provided—

- (a) that all the provisions relating to penalties (including provisions relating to penalties in lieu of prosecution for an offence or in addition to the penalties or punishment on conviction for an offence but excluding the provisions relating to matters provided for in Sections 10 and 10-A of the principal Act and the provisions relating to offences) of the general sales tax law of the each State shall, with necessary modifications, apply in relation to—
 - (i) the assessment, re-assessment, collection and enforcement of payment of any tax required to be collected under the principal Act in such State; and
 - (ii) any process connected with such assessment, re-assessment, collection or enforcement of payment; and
- (b) that for the purpose of the application of the provisions of such law, the tax under the principal Act shall be deemed to be tax under such law.

(2) Notwithstanding anything contained in any judgment, decree or order of any court or tribunal or other authority, all penalties under the general sales tax law of any State imposed or purporting to have been imposed in pursuance of the provisions of Section 9 of the principal Act, and all proceedings, acts or things taken or done for the purpose of, or in relation to, the imposition or collection of such penalties, before the commencement of this Act shall, for all purposes, be deemed to be and to have always been imposed, taken or done as validly and effectively as if the provisions of sub-section (1) had been in force when such penalties were imposed or proceedings or acts or things were taken or done and, accordingly,—

- (a) no suit or other proceedings shall be maintained or continued in or before any court or any tribunal or other authority for the refund of any amount received or realised by way of such penalty;
- (b) no court, tribunal or other authority shall enforce any decree or order directing the refund of any amount received or realised by way of such penalty;
- (c) where any amount which had been received or realised by way of such penalty had been refunded before the commencement of this Act and such refund would not have been

“Provided that where the highest appellate authority finds that the appellant has not availed of the opportunity of filing first appeal before the appellate authority, such case shall be forwarded to such authority.”

84. Ins. by Act 8 of 2023, S. 170 (w.e.f. 31-3-2023).

85. Ins. by Act 23 of 2004, S. 119 (w.e.f. 17-3-2005).

86. The words “or Union Territory” omitted by Act 3 of 2006, S. 8 (w.e.f. 1-3-2006).



allowed if the provisions of sub-section (1) had been in force on the date on which the order for such refund was passed, the amount so refunded may be recovered as an arrear of tax under the principal Act;

- (d) any proceeding, act or thing which could have been validly taken, continued or done for the imposition of such penalty at any time before the commencement of this Act if the provisions of sub-section (1) had then been in force but which had not been taken, continued or done, may after such commencement be taken, continued or done.

(3) Nothing in sub-section (2) shall be construed as preventing any person,—

- (a) from questioning the imposition or collection of any penalty or any proceedings, act or thing in connection therewith; or
- (b) from claiming any refund,

in accordance with the provisions of the principal Act read with sub-section (1).

Explanation.—In computing the period of limitation, if any, for questioning as provided in clause (a) or for claiming as provided in clause (b), the period commencing on the 27th day of February, 1975 and ending with the date of commencement of this Act shall be excluded.

(4) Any interest charged or paid or purporting to have been charged or paid, and any proceeding, act or thing taken or done or purporting to have been taken or done for charging or paying any interest, under the provisions of the general sales tax law of any State read with Section 9 of the principal Act, before the commencement of this Act, shall be deemed to be and to have always been as validly charged, paid, taken or done as if the amendment made by clause (b) of Section 6 had been in force when such interest was charged or paid or when such proceeding, act or thing was taken or done.

Explanation.—For the purposes of this section, “general sales tax law” shall have the same meaning as in the principal Act.

FINANCE ACT, 2000

[Act 10 of 2000]

120. Validation.—(1) The provisions of Section 9 of the Central Sales Tax Act, 1956 (hereafter in this section referred to as the Central Sales Tax Act) shall have effect, and shall be deemed always to have had effect, as if that section also provided—

- (a) that all the provisions relating to interest of the general sales tax law of each State shall, with necessary modifications, apply in relation to—
 - (i) the assessment, re-assessment, collection and enforcement of payment of any tax required to be collected under the Central Sales Tax Act, in such State; and
 - (ii) any process connected with such assessment, re-assessment, collection or enforcement of payment; and
- (b) that for the purposes of the application of the provisions of such law, the tax under the Central Sales Tax Act shall be deemed to be tax under such law.

(2) Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, general sales tax law of any State imposed or purporting to have been imposed in pursuance of the provisions of Section 9 of the Central Sales Tax Act, and all proceedings, acts or things taken or done for the purposes of, or in relation to, the imposition or collection of such interest, before the commencement of this section, shall, for all purposes, be deemed to be and to have always been imposed, taken or done as validly and effectively as if the provisions of sub-section (1) had been in force when such interest was imposed or proceedings or acts or things were taken or done and, accordingly,—

- (a) no suit or other proceedings shall be maintained or continued in, or before, any court, tribunal or other authority for the refund of any amount received or realised by way of such interest;
- (b) no court, tribunal or other authority shall enforce any decree or order directing the refund of any amount received or realised by way of such interest;
- (c) where any amount which had been received or realised by way of such interest is refunded before the date on which the Finance Act, 2000 receives the assent of the President and

such refund would not have been allowed if the provisions of sub-section (1) had been in force on the date on which the order for such refund was passed, the amount so refunded may be recovered as an arrear of tax under the Central Sales Tax Act;

(d) any proceeding, act or thing which could have been validly taken, continued or done for the imposition or collection of such interest at any time before the commencement of this section if the provisions of sub-section (1) had then been in force but which had not been taken, continued or done, may, after such commencement, be taken, continued or done.

(3) Nothing in sub-section (2) shall be construed as preventing any person—

(a) from questioning the imposition or collection of any interest or any proceedings, act or thing in connection therewith; or

(b) from claiming any refund.

in accordance with the provisions of the Central Sales Tax Act, read with sub-section (1).

Explanation.—For the purposes of this section, “general sales tax law” shall have the same meaning assigned to it in the Central Sales Tax Act.

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- (d) any proceeding, act or thing which could have been validly taken, continued or done for the imposition or collection of such interest at any time before the commencement of this section if the provisions of sub-section (1) had then been in force but which had not been taken, continued or done, may, after such commencement, be taken, continued or done.

(3) Nothing in sub-section (2) shall be construed as preventing any person—

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