



E- I Transaction

Process Note and Documentation

March 2012

SYNOPSIS

- BACKGROUND
- PROVISIONS RELATED TO Sec 6(2)
- OTHER ASPECTS
- INVOICING

Transit sales

These are generally known in the market as 'LR sales', 'subsequent inter-State sales' and 'E-I sales'. However these words including the words 'transit sales' do not find place in the statute. These transactions fall under clause (b) of section 3 of the Central Act, which reads as follows:

"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."

In these transactions 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 transaction can be either falling under clause (a) or under clause (b) but not under both the clauses at the same time. The assessing authority has to keep in mind the Explanation-I under section 3 while deciding the nature of these transactions. A sale is said to be falling under clause (b), if there is transfer of document of title to the goods during the course of movement from one State to another State. Documents of title include sale invoice, way bill, delivery challan, lorry receipt, railway receipt; etc. At the time of such transfer, the goods may be in the originating state or in the destination state. If the goods are taken delivery from the common carrier for example, lorry office or railways by the purchaser, then there is said to be break in inter-State movement of goods and there can be no transit sale thereafter. The person making a transit sale is also called subsequent inter State seller.

Exemption of transit sales from payment of tax

Section 6(2) of the Act provides for exemption from payment of tax on the subsequent inter-State sales of goods, if such dealer claiming exemption files before his assessing authority a Certificate in Form E-I or E-II as the case may be obtained from his seller and a declaration in Form C obtained from his purchasing dealer.

Sale under Sec 6(2) E-I Transaction

Under E-I transaction the movement of goods from one state to another is effected by a transfer of documents of title to the goods during their movement from one state to another (sales in transit)

CASE

Manufacturer --- ABC Pune
ABC Customer-M/s I Trade , Aasam
Ultimate Buyer M/s. XYZ Kolkata

ABC Pune will raise Invoice on M/s I Trade charging CST @2%

The LR will reflect destination of Kolkata (Actual place of Delivery)

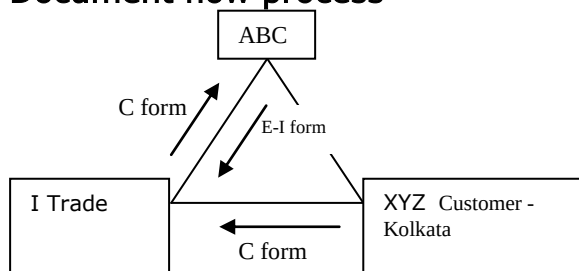
M/s I Trade will endorse the LR enroute to Ultimate Buyer –as being actual Place of Delivery, without taking the delivery of goods and will raise commercial Invoice on his Customer at Kolkata giving reference of LR endorsed.

M/s I Trade will need to Issue C form to ABC, Pune

ABC- Pune will issue Form E-I to M/s I Trade giving reference of Form C received.

M/s I Trade buyer being XYZ will issue C form to M/s I Trade.

Document flow process



Documents

1. M/s ITrade will need to endorse the Original LR in favour of his ultimate customer – Actual Place of Delivery before delivery of the goods to customer
2. M/s I Trade will need to raise Commercial Invoice with reference of endorsed LR Number and Date appearing on the face of the Invoice on his ultimate customer
3. On receipt of Commercial Invoice and the Endorsed LR ultimate customer can take delivery of the goods and make the payment to M/s I Trade.
4. Rest for issuance of Statutory forms, the same already stated herein above.

The following text to be endorsed on the LR by M/s Industrial Trade & Agencies

Please deliver stocks
To
(XYZ Customer) (Name with complete address of the location)
For (M/s I Trade)

Authorised Signatory

Other Aspects of 6(2)/ E-I sales

There can be different situations under 6(2) sales apart from the above

- **First point customer and seller are in the same state**

Many times orders are placed by local customers (within the same state) by directing the same to be dispatched to outside state customer.

In such transaction even though local customer is shown as consigner and "ship to" destination is outside the state, the transaction will qualify for sale in transit under sec 6(2) being sale in transit.

The local customer has to follow the procedure of Endorsement of LR in the name of ultimate buyer.

The Following judgment of M/s. Fatechand Chaturbhujdas vs. State of Maharashtra (S.A.894 of 1990 dated.12-8-1991) decided by Maharashtra Sales Tax Tribunal clarifies the aspect:

-----In this case the local party purchased goods from other local party and directed the same to be dispatched to outside State party. Even though local party was shown as consignor, taking the view that while placing order there is term for outside place dispatches, Maharashtra Sales Tax Tribunal held that the sale between two local parties is first interstate sale and the sale by local party to outside party is subsequent interstate sale, duly exempt u/s. 6(2)-----

Clarification on Predetermined Sale

Even if there is a predetermined sale, there is no adverse effect on the sale to be claimed u/s. 6(2).

The Point to be considered here is that if the start and end of movement of goods is interstate then CST will be apply but if start and end both in same state then vat will be applicable.

As a precautionary measure the copy of endorsed GR/LR should be obtained from the customer who has executed interstate sale as this will affirm that no set off has been claimed and goods have moved interstate.

The legal position with respect to above interstate sale is clear, amongst others, from the following judgments:

M/s. Duvent Fans P. Ltd. vs. State of Tamil Nadu (113 STC 431)(Mad.): - Local dealer purchased goods from other local dealer and directed to send them to his purchaser's place in other State. Madras High Court held that the first transaction is first interstate sale and the second sale is also subsequent interstate sale exempt u/s.6(2) of CST Act. The above judgment is directly on issue and hence will govern the field.

In pursuance of the judgment of Hon'ble SC in the matter of A&G Projects & Technologies Ltd. Vs. State of Karnataka [(2008) VIL 40 SC] and subsequent interpretation by the Department that pre determined sales are not eligible, the following states have issued circulars clarifying the subject of **eligibility of sale in transit** on such pre determined sales

1. The Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad in his circular in Ref. No. AIII(2)/91/2010 dated 7-5-2010
2. Government of West Bengal Directorate of Commercial Taxes in their Trade Circular NO. 11/2010 dated 4-10-2010

Therefore, even if the sale is predetermined it will still qualify for sale in transit under sec 6(2)

Caution

For all purposes receipt of Form C from such local customer in the same state has to be ensured. Also as a matter of safeguard undertaking towards payment of differential vat and interest in absence of provision of the form C within 3-4 months to be obtained before execution of transaction.

If however the above mode is not to be preferred then the local customer should be charged full VAT on sales at the existing rates, for which set off can be claimed by the distributor and subsequently interstate billing by the customer can be made against form C to his customer.

Restrictions under 6(2) E-I sales

E-I transaction are not allowed in cases of dispatch thru courier or by air

Moreover a Courier Docket is non-negotiable instrument. In some cases it is also known as AWB (Air Way Bill) or DWB (Docket Way Bill).

The main ingredients of "sale in transit" transaction is, the **Endorsement** given on the Lorry Receipt. The CST Act considers Lorry Receipt copy as the document of transfers. The Act is not amended to incorporate various new mode of transport like courier or Air Way Bill, etc.

"**Endorsement**" means the signing by the consignee or the endorsee after adding a direction on a negotiable transport document

Further relevant section of CST Act is read as under

Section 6 in The Central Sales Tax Act

6(2) Notwithstanding anything contained in sub-section (1) or sub-section (1A), where a sale of any goods in the course of inter-State trade or commerce has either occasioned the movement of such goods from one State to another or has been effected by a transfer of documents of title to such goods during their movement from one State to another, any subsequent sale during such movement effected by a transfer of documents of title to such goods to a registered dealer, if the goods are of the description referred to in sub-section (3) of section 8, shall be exempt from tax under this Act:

The document of title has been defined as under

Section 2(4) in The Sale Of Goods Act, 1930

(4) " document of title to goods" includes a bill of lading, dock warrant, warehouse keeper' s certificate, wharfingers' certificate, railway receipt, Goods Carriage transport document (for transport of goods by road, rail, inland waterways or sea), warrant for the delivery of goods the possessor of the document to transfer or receive goods thereby represented;

In view of the above clarification such transactions by way of courier will not be recognized by the department as 6(2) sale and will not qualify as "sale in transit" and will attract tax liability.

Invoicing Methodology

- *First point customer and seller are in the same state*

Let us assume Manufacturer "A" is located in Maharashtra
Distributor "B" is located in Maharashtra who is customer of "A"
End customer "C" (Dealer is located outside Maharashtra) who is customer of "B"

Bill to _____
Distributor B Add: Maharashtra <i>Applicable CST (2% at present) is charged against Form C</i> _____

Ship to _____
Customer .. <Customer "C" "address where goods are to be delivered"> A/c Distributor B _____

LR / GR / RR

- ☐ Should be dated before the date of Distributor "B" Invoice
- ☐ Should be duly endorsed by Distributor in favour of Customer "C"
- ☐ Consignee address shall be mentioned as "B" c/o Customer<address>".

- *First point customer is outside the state of Maharashtra*

Let us assume Manufacturer "A" is located in Maharashtra
Distributor "B" is located outside Maharashtra who is customer of "A"
End customer "C" (Dealer is located in the same state of the customer or any other state) who is customer of "B"

Bill to _____
Distributor B Add: Outside Maharashtra <i>Applicable CST (2% at present) is charged against Form C</i> _____

Ship to _____
Customer .. <Customer "C" "address where goods are to be delivered"> A/c Distributor B _____
