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F FORM UNDER CST ACT CAN COVER TRANSACTIONS OF A PERIOD MORE THAN ONE MONTH

Calcutta High Court in **Cipla Limited vs Deputy Commissioner,** Commercial Tax reported as VSTI 2013 Vol. 17 B-509 has held that There is nothing in Rule 12(5) of CST (R&T) Rules which could be construed to vitiate a declaration form i.e "F" form on a ground that such declaration form covered transactions for a period of more than a month.

The High Court in nut shell held that one F form can cover transactions of more than one month also, as Rule 12(5) of CST (R&T) Rules 1957, uses the word "may" and not "shall" while prescribing the periodicity of F forms.

Statutory Provisions: Rule 12(5) of the CST (R&T) Rules, 1957 provides the time period for the F Forms. The first proviso to Rule 12(5) runs as under:

"PROVIDED THAT a single declaration in F forms **may** cover transfer of goods, by a dealer, to any other place of his business or to his agent or principal as the case may be, effected during a period of one calendar month."

It is notable here that the above proviso uses the word "may" and not "shall", which has been interpreted in the said judgement in the way that Rule 12(5) nowhere poses a restriction that a single declaration in F form cannot cover transactions of branch transfers of more than one calendar month.

Facts of the case: In the abovesaid case the claim of the petitioner regarding inter-state branch transfer u/s 6A of the CST Act, 1956 was disallowed on the ground that the F forms were not received on monthly basis but on quarterly basis.

The lower authority concluded that F forms produced by the petitioner before it, covered transaction of stock transfer for more than one month in violation of Rule 12(5) of the CST (R&T) Rules, 1957, hence benefit of section 6A was denied.

Verdict of High Court: On a writ petition, the High Court held as under:

"It appears that the Additional Commissioner, Commercial Taxes, West Bengal has misconstrued Rule 12(5) of the Central Sales Tax (Registration and Turnover) Rules, 1957 which provides that the declaration referred to in sub-section (1) of Section 6A of the Central Sales Tax Act, 1956 shall be in form F. The proviso to Rule 12(5) provides that a single declaration might cover transfer of goods, by a dealer, to any other place of business, or agent, or principal as the case may be, effected during a period of one calendar month. There is nothing in the rules which can be construed to vitiate a declaration form only on the ground that it covers transactions exceeding a period of over one month. The assessment has apparently been revised suo moto and ex parte on a misconception of rule 12(5) of the Rules. The impugned order is, thus, set aside and quashed."

Thus from the above Judgement it is clear that one F form if cover transactions of branch transfer of a period of more than one month, it cannot be held as invalid form, as the words mentioned in Rule 12(5) is "may".

This judgement should also apply to C forms: It is pertinent to mention here that 2nd proviso to the Rule 12(1) which talks about the periodicity of C forms, also uses the word "may", which means that the above said judgement should also mutatis mutandis apply to the periodicity of C forms. The said proviso runs as under:

"Provided further that a single declaration may cover all transactions of sale which takes place in a quarter of a financial year between the same two dealers."

Thus it is clear from the above proviso that it is not mandatory that C forms should only cover inter-state transactions of sale between two dealers, taken place in a quarter.

If the declaration in C forms cover transactions of more than a quarter in a financial year, that is to say, if a single declaration in C form cover transactions of sale of say 6 months, the same cannot be rejected on this sole ground.

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