

VAT IN SPECIAL TRANSACTIONS

Question 1

Write a brief note to explain the impact of VAT on lease transactions. (4 Marks)(Nov 2008)

Answer

Impact of VAT on lease transactions:-

1. Lease is chargeable to tax by virtue of sub – clause (d) of clause 29A of Article 366 of the Constitution of India. This is a tax on the transfer of right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.
2. The **taxable event is the transfer of right to use** any goods and hence immovable property is not covered.
3. The **taxable turnover** means the valuable consideration paid or payable for any sale in a given period. Certain States have provided for deduction of interest or finance charges for the purpose of determination of taxable turnover.
4. Lease of an asset in the course of inter-State trade cannot be subject to VAT.
5. **Transfer of right to use does not presuppose ownership** of the goods. A sub-lease of an asset also is taxable unless specifically exempt under the State VAT Law.
6. **Sale of leased asset** after the end of the lease period is taxable as a **normal sale**.
7. The maintenance of leased asset involving supply of materials for maintenance/ repair by the lessor will not amount to a works contract as there would be no transfer of property in such materials to the lessee. Hence, there would be **no VAT on the value of materials supplied during maintenance/repair** of the leased asset.
8. The assets given on lease will be **generally capitalized** by the lessor in his books and will be treated as capital assets. Thus, provision relating to input tax credit on capital goods will apply.
9. The lessor would pay VAT at the time of procurement of goods. However, liability to pay VAT on lease rentals will be spread over the tenure of the lease. Therefore, some States have provided for utilization of input credit for paying output tax only over the entire period of lease