

VAT and Central Sales Tax

Question 1

Briefly explain the provisions of Central Sales Tax in case of Works Contract.

Answer

There was confusion as whether State Rules could be applied for inter-state Works Contract because there was no provision relating to Works Contract pricing. The aforementioned matter had been examined by Hon'ble Apex Court in *M/s Mahim Patram Pvt. Ltd. Vs Union of India & others-20074 VST 248 (SC)*. It has been held that Section 13(3) of Central Sales Tax, 1956 as long as Central Government does not make rules for the determination of turnover in relation to inter-state works contract, the turnover for the inter-state works contract can be determined as per Rules made by the State Government. For instance, a dealer from Karnataka executes inter-state works contract in relation to supply and installation of plant and machinery in Tamil Nadu. He can claim the deduction towards the labour charges either on actual basis [provided proper supporting bills are there] or standard deduction as specified in Karnataka VAT Act.

Question 2

On what kind of sales Central Sales Tax is levied? Briefly explain meaning of term "inter-state sale or purchase"

Answer

According to Constitution of India tax on inter-state sale or purchase can be levied only by Union Government. Central Sales Tax Act, 1956 has been enacted for this purpose. According to Section 6(1) of Central Sales Tax subject to other provisions of the Act, every dealer shall be liable to pay tax under this Act on all sale of goods effected by him in the course of inter-state trade or commerce.

According to section 3 of Central Sales Tax 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.

The above-mentioned first mode is 'direct inter-state sale' whereas second mode is 'by transfer of documents'.

Question 3

Illustrate with an example, whether inter-State purchases liable to central sales tax are eligible for input credit and explain the effect of the same on inter-State transactions.

Answer

The inter-State purchases liable to central sales tax are not eligible for input tax credit. However, the liability to central sales tax can be set off against the input tax credit earned on other eligible purchases. By way of an example, a dealer in State K purchases goods from another dealer in State M. The dealer in State M charges CST at 2% on this sale against C Form produced by dealer in State K. The tax is deposited in State M. Though it is called CST, the Central Government does not get any share in this and it is a revenue receipt of the selling State. The dealer in State K sells these goods within the State K and collects VAT which is deposited in State K. The question is whether the dealer in State K can claim input tax credit of the central sales tax paid by him to be set off against the VAT liability in State K. This is not possible as State K will not permit the set off against the tax paid to another State M. This is because the same if permitted would result in loss of revenue to State K. This is the reason why CST is not vatable.

The effect on inter-State trade is that trade will be uncompetitive for the States that are net importers because in those States consumer prices will be high. CST is origin based tax collected by the exporting State while VAT is a destination based consumption tax. They both cannot go together and to that extent the objective behind the VAT regime in lowering of prices for consumers cannot be achieved.

Selected Self-Examination Questions

1. Explain with the help of an example why CST is not vatable.
2. Explain how the CST in the VAT regime leads to cascading effects of taxes.