

## Issues in issue of Form 'C' in CST

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Following are the goods specified u/s 8(3) of CST Act 1956 in respect of which an interstate sale to a registered dealer is liable to tax at concessional rates i.e. 2% or state rate whichever is lower, provided that the transactions are covered by Form C:

- a. For resale or
- b. For use in the manufacturing or processing of goods for sale or
- c. For use in the mining or
- d. For use in the generation or distribution of electricity or any other form of power or
- e. For use in telecommunication network or
- f. Containers or packing materials used for packing goods specified in the certificate of registration or
- g. Packing the packing material itself.

The very basic requirement is Form C. Now, we try to analyse few of the common issues faced by the dealers with respect to issue of Form C and possible solutions.

### ***Which form to be submitted with the department?***

Form C has been prescribed in Original, duplicate and triplicate forms. Now the question arises which form to be submitted with the department as the CST Act or CST Rules do not prescribe anything in this regard. In case of *Manganese Ore (India) Ltd Vs. CST MP (1991)*, the honourable High court held that filing of duplicate copy of form is enough compliance for claiming the concessional rate benefit. Contrary to this, there are decisions wherein it has been held that filing of Original form C is essential to claim the benefit. However, as every state has its own rules for compliance under CST law, it is essential to refer to respective rules in this regard.

### ***What if Form C is lost?***

It may so happen that the Form C is lost by the purchasing dealer or it is lost when in transit to selling to selling dealer. In this case, the purchasing dealer should furnish an indemnity bond to the VAT/sales tax authorities from whom the forms are obtained. Such indemnity bond shall be in Form G specified. It is essential to note that it is not even possible to submit certified photocopy of earlier certificate as such photocopy is not acceptable as held by tribunal in case of *J N Jetiwa v. state of Maharashtra- (1995) 11 MTJ 491 (Mah Trib)*.

### ***Whether selling dealer liable for false declaration by buyer?***

The purchasing dealer can issue C form for purchase of only those goods which are mentioned in his registration certificate. For other goods no Form C can be issued by the buyer. If the buyer so issues the form for goods not mentioned in the registration certificate, then it would result in misuse of form by the buyer and such buyer would only be liable for penalty under the CST provisions. Once selling dealer furnishes necessary declaration forms obtained from purchasing dealer,

nothing more is required to be done as held by the High court in case of *K G Industries v. STO (1999) 113 STC 49 (MP HC)*.

***Whether Form C is applicable in case of Works contract also?***

Goods used in executing works contract are deemed to be sold and there is sale of material used in the execution of works contract. Hence, form C be issued for materials used in works contract also. However, again it is subject to listing of goods in the registration certificate of the buying dealer as held by the High court in case of *United Ltd. v. CTO (1991) 83 STC 207(AP HC)*.

***Whether Form C could be rejected for minor defects?***

Sometimes there could be minor errors in the Form C issued by the buying dealer to selling dealer which could be wrong date, wrong name of dealer etc. In such cases, the forms cannot be rejected by the dealers. There are numerous decisions which have upheld this view and as per most of the decisions the dealers shall be given an opportunity to rectify such mistakes in the forms. In *Rajsthan Pipes v. CTO (2004) 138 STC 383 (Cal HC)*, the honourable High court held that the benefit cannot be denied on ground of omission like date of registration and minor variation in amount.

**Conclusion:**

There is a great hope that all these petty issues would be addressed and done away with the introduction of GST soon. However, till the introduction of GST the dealers shall be careful in handling transactions covered statutory forms like Form C, F which otherwise could lead to unnecessary waste of time, energy and even money most of the times.