

Circular No.12/2016

Acts Cell-IV/26153/2016

Office of the Additional Chief Secretary/
Commissioner of Commercial Taxes,
Chepauk, Chennai - 5.

Dated 28.10.2016

**Thiru C. Chandramouli, I.A.S.,
Additional Chief Secretary/
Commissioner of Commercial Taxes,
Chepauk, Chennai - 600 005.**

Sub: CST Act, 1956 - Issue of E-1 Certificate
- Certain representation received -
Circular instructions - reg.

Ref: Representation dated 21.09.2016
received from Tvl. BHEL Small and
Medium Industries Association, Trichy -
620 015.

The BHEL Small and Medium Industries Association, Trichy have contended in their representation that they are ancillary units of BHEL, Trichy. They supply goods to the customers of BHEL located in other States, as per instructions of BHEL treating the sales as inter-State sales under Central Sales Tax Act, 1956. BHEL in turn effects transit sales to other State buyers. But their claim is not entertained by their assessing authorities on the ground that the seller and the buyer are located within the State and hence, the E-1 declaration which they claim for production to BHEL is being denied by the assessing authorities.

2. As per Section 3 of CST Act, a sale would fall under the definition of interstate sales, if such sale occasions the movement of goods from one State to another State. Such interstate sales can also be effected by transfer of documents of title to the goods (by endorsement of LR/RR in favour of the buyer) during their movement from one State to another. Therefore, the main criteria which decides the nature of inter-state sales is not the location of the buyer and seller, but the interstate movement of goods and the link between such interstate movement of goods and the contract of sales. Therefore, as long as there is an inextricable link between the agreement of sales and the interstate movement of goods, two local dealers situated within the State can effect interstate sales. Similarly, even if the buyer and the seller are located in different States and if there is no interstate movement of goods in connection to the sale effected between them or there is no link between the sale and the interstate movement of goods, such sale would not

fall under the definition of interstate sales. The above ratio has been upheld in many High Court and Supreme Court judgments.

3. As far as the sale in the course of interstate movement of goods by transfer of documents of title to goods, which is called transit sales is concerned, the Hon'ble Madras High Court has held in the case of M/s.Duvent Fans Pvt.Ltd. Vs. State of Tamil Nadu in ((1999) 113 STC 431 (Madras)) that two local dealers can effect such transit sales. The objections raised by AG against exemption allowed on such sales was not accepted by the Department and based on the above judgment of the High Court, the connected Paras were also dropped. In the above circumstances, the view taken by the assessing authorities of Trichy Division to deny the inter-State sales and issue of E1 declaration to the ancillary units of BHEL for the transit sales effected by BHEL under Section 6(2) of Central Sales Tax Act, 1956 is not legally correct. Therefore, all the assessing authorities are instructed to allow such inter-State sales and issue E1 certificate, in case the conditions prescribed under Section 3 and 6(2) of Central Sales Tax Act, 1956 are fulfilled.

5. The receipt of this circular should be acknowledged by e-mail by all Joint Commissioners of Territorial Wings. All Territorial Joint Commissioners should get such acknowledgement from the Heads of Assessment Circles under their control.

Sd./- C. Chandramouli,
Additional Chief Secretary/
Commissioner of Commercial Taxes

To

1. All the Joint Commissioners (CT).
2. All the Deputy Commissioners (CT) and Assistant Commissioners (CT).

Copy to:

1. All the Additional Commissioners, O/o.ACS/CCT, Chepauk, Chennai - 5.
2. The Joint Commissioner (Admin), O/o.ACS/CCT, Chepauk, Chennai - 5.
3. The Deputy Commissioner (GS), O/o.ACS/CCT, Chepauk, Chennai - 5.
4. All the Joint Commissioners (CT), Deputy Commissioners (CT) & Assistant Commissioners (CT), O/o.ACS/CCT, Chepauk, Chennai - 5.
5. The Joint Commissioner (Computer Systems), Chennai - 6
(For uploading in the Department website).
6. The Director, Commercial Taxes Staff Training Institute, Chennai - 6.
7. Stock File/Spare

/Forwarded/By order/


Additional Commissioner (PR) (FAC)