



RISK IN STOCK TRANSFERS – K-VAT & CST

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Stock transfer of goods to a branch or consignee is very common in trade. Stock transfers can be both inter-state (outside the state) and intra-state (inside the state). A prudent businessman should plan the sales transactions with the option of stock transfers considering the VAT and CST provisions prevailing in the state. Planning such transactions is not a cakewalk as it involves many risks. Few of the points which should be considered in case of stock transfers along with the details of risk involved are discussed below.

INTRASTATE STOCK TRANSFERS

Intrastate stock transfers usually do not involve much risk or hassles as there would be no loss to the revenue in the state as long as goods move within the state. However, the dealer shall ensure that the documentation part is taken care even in case of intrastate stock transfers. The dealers shall record details of such movement of goods including the description, quantity and destination. Maintenance of registers at the place of despatch and receipt would be important along with meeting the requirements of E-sugam in the state of Karnataka. Dealer should also ensure that the additional place where the goods are being transferred is registered with the VAT authorities and registration certificate is amended.

Apart from this, the dealer shall ensure that the inputs if any transferred to the other places are used for taxable activities if VAT input setoff has been claimed on such inputs by maintaining proper records. If there is a change in use of goods on which input setoff has been claimed for non taxable activities, then amount of setoff claimed shall be repayable in terms of Section 19 of KVAT Act 2003.

INTERSTATE STOCK TRANSFERS

Dealer should consider various factors such as rates of local VAT provisions, input tax restrictions and location of customers etc. before deciding to stock transfer the goods in course of interstate. Following points would be helpful in this regard:

a) Requirement of Form F

In order to prove a stock transfer transaction as non-sale transaction, the dealer has to mandatorily submit Form F to his local VAT office. Obtaining Forms from the VAT officials of goods receiving states is not an easy task. Department officials usually deny or delay issuing

Form Fs unless all their expectations (legal and illegal) are met by the dealer. Though, it is not right to meet their illegal expectations, it is highly recommended to meet the legal expectations including proper documentation with supporting application forms, disclosure of information in the VAT / CST returns filed. Non production of Form F would carry a greater risk as the department could demand full rate of such sales transactions.

The dealer shall ensure that such stock transfers are not as a result of pre determined sales order which otherwise would be liable for CST at full rate of tax unless Form C could be produced by the buyer of such goods.

b) Input tax reversals as per local VAT provisions

VAT provisions in most of the states requires the dealer transferring the goods in course of interstate not as a result of sale to reverse the input credit availed on inputs at specified rates. In case of Karnataka VAT provisions, the dealer is eligible to claim VAT input setoff only over and above 2% in case of inputs which are used in stock transferred goods as per Section 14 of KVAT Act 2003. For instance, if VAT input setoff is Rs.14,500/- at the rate of 14.5% on inputs which are stock transferred, dealer is eligible to claim input set off of Rs.12,500. He shall not be eligible to claim balance 2% VAT amount as per Section 14.

Maintenance of proper records to identify inputs used in such stock transfers would be vital for determining the amount of setoff to be reversed. Otherwise, the dealer would be required to consider the value of goods despatched equal to amount for which the goods are ordinarily sold by the dealer or prevailing market price of goods where the goods are not ordinarily sold. In this case, the dealer could end up reversing credit on total purchases including interstate purchases / imports though no input setoff would have been claimed on interstate purchases and imports.

c) Cost benefit analysis of setting up branches

The dealer before setting up branches outside the state shall undertake cost benefit analysis after considering important factors such as local VAT provisions, ability of the customers to avail input setoff, rate of tax in both states. If the customer is not in a position to claim VAT input set off, then it is viable to sell the goods in course of interstate sale against Form C wherein usually only 2% CST would be charged to the customer. Otherwise, the dealer would end up charging local VAT rate to the customer from the branch outside the state and also there would be a cost in form of VAT input setoff reversal on stock transferred goods in terms of Section 14 of KVAT Act 2003.

Important points to be noted

1. Form F required if goods sent outside the State for job work or repairs or returnable basis. Held in case *Ambica Steels Ltd. V. State of UP (2008) 12 VST 216 (All HC DB)*
2. Form F was not mandatory upto 11th may 2002. However as per section 6A(1) of CST Act as amended w.e.f 11.05.2002, submission of F form is mandatory to prove stock transfer. Otherwise transaction will be treated as 'sale' for all purpose of CST. *New Kiran Cashews V. UOI (2007) 9 VST 220 (Karn HC)*.
3. Mere fact that goods were sold on same day from branch does not mean it is inter-State sale. Held in case *State of Karnataka v. Jindal aluminium Ltd (2002) 126 STC 458 (Kar HC DB)*.
4. Form F only in case of completed transactions, not in case of rejection held in case *Lakshmi and Co v. State of Kerala (2001) 121 STC 423 (Ker HC DB)*.
5. In the absence of any evidence (F Form) of movement of goods, it would be open to assessing officer to deem that the movement has been occasioned as a result of sale and not a mere consignment effected. Held in case *Tata Iron v. ACCT (2004) 134 STC 125 (Mad HC)*.

Conclusion: Stock transfers being inevitable in any business, the dealer should consider various risks and benefits available in setting of branches. It would be wise if he consults professionals before structuring his stock transfer transactions as VAT provisions of more than one state needs to be analysed thoroughly for the purpose.