

Central Sales Tax

Being an indirect tax, liability of collection of Sales Tax rests ultimately with the last/ end buyer or consumer. It is for their own convenience that the Governments have framed laws/rules that mandate the 'seller trader/dealer' to collect tax as agents of the Government from someone actually liable for it and deposit the same in the Government accounts. Most businesses operate with a long supply chain in which goods change hands several times. Though, payment of State Sales Tax/VAT and/or CST, basically is the liability of the purchaser of goods, however, the Government as a dominant player has made the sellers (Traders) liable for collection of tax from the buyers and payment thereof into the treasury. In case of inter-state sale of goods by a registered trader situated in one state to another registered trader situated in another state, CST is payable at concessional rates. To establish that both the parties are registered traders a declaration form (called C-Form) has to be provided by the buying dealer to the selling dealer. At the time of his assessment or even before, the selling dealer has to produce such form to his Assessing Officer to be assessed at concessional rates; In case the selling dealer is unable to provide the form to his assessing officer he becomes liable for the amount of difference in tax at normal and concessional rates along with interest and penalty. The buying dealer being free from any liability for not providing C forms does not bother about furnishing the form to the seller. Moreover there are instances of Assessing office refusing to issue C forms due to some pending dispute with the buyer dealer.

It may be observed there is no recourse for the selling dealer to save himself from punishment and harassment for someone else's default.

Proposed solution

The following initiatives could be taken to address the current constraints:

- i. The tradition of automatic appeal and confiscation of money in the interim needs to end. If tax department wishes to appeal once it has lost at a particular judicial level, it should pay a punitive interest rate on the money it holds.
- ii. Facility of Advance Ruling should be made available to MSMEs at least in matter of Excise, Service & Income Tax.
- iii. Advance Tax must be allowed to adjust to the final Tax payments.
- iv. Direct penalties need to be levied on officers who hand out a disproportionate number of subsequently overturned orders.
- v. Essential CST reform: The responsibility for not issuing C form has to be fixed on buyer instead on seller of goods. To be fair and equitable to all, CST Act and Rules should be so amended that it is the selling dealer who becomes liable for his acts of omissions and commissions and is made to bear the consequences like differential tax, interest and penalty burdens for non-issue of the required forms.

[Part of FISME's Memorandum submitted to the Inter-ministerial Committee on MSMEs, set up under Cabinet Secretary, Govt. of India 2013].

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