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EXPORT / In the Course of Export
U/S. 5(1) and Sec. 5(3) of CST Act, 1956

CA Madhukar Khandekar

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No tax on export sale

If a sale is an export sale, no sales tax is leviable under VAT/CST.



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Export Sale [Section 5(1)]

A sale or purchase of goods is deemed to be in course of export of the goods out of the territory of India, only if-

- i. Sale / purchase either occasions such export; or
- ii. Is effected by a transfer of document of title to goods after the goods have crossed the customs frontiers of India.

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Export Sale

- i. Sale should occasion the export.
- ii. Sale to foreign tourist is not 'Sale in course of export'.
(Deepmani v. State of Mah. (2011) 38 VST 275 (Bom.))
- iii. Destination of goods should be a foreign country, though actual reaching of destination not necessary.

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Deepmani V/S State of Maharashtra (2011) 38 VST 275 (BOM)

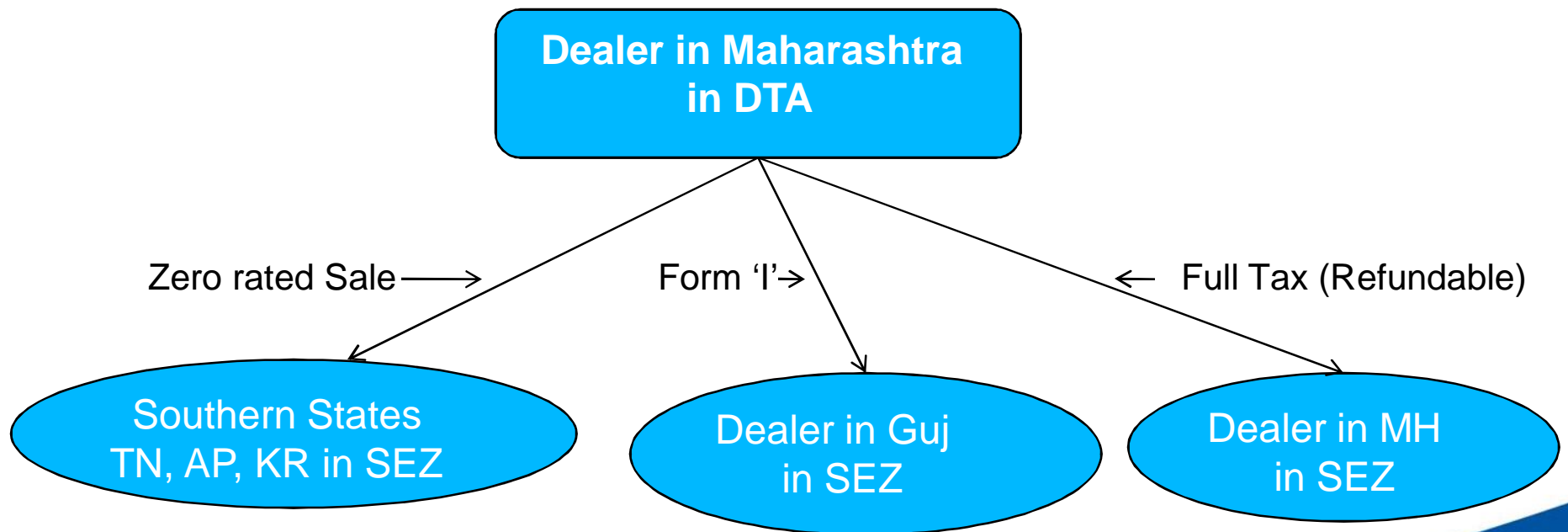
- The goods were received and consideration was paid in the shop.
- The delivery of goods was to be given just before the custom area.
- There was no compulsion on the buyer to take it out of India.
- The crucial fact is the sending of goods to a foreign destination where they would be received as import.
- As there is no proof of export, the sale can not be treated as export.

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Issues under SEZ Act, 2005

- Sale to a dealer registered in SEZ is exempt. (Deemed Export)
 - In southern states like Tamil Nadu, Andhra Pradesh, Karnataka they treat it as a zero rated sale.
 - In Maharashtra, Form 'I' should be issued by the registered dealer if it is interstate purchase.
 - If it is local purchase then full tax is to be paid but the dealer can claim refund of tax on export of goods.

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Sale of Aviation turbine Fuel [Sec. 5(5)]

- If any designated Indian carrier purchases Aviation Turbine Fuel for the purpose of its international flight, such purchases shall be deemed to take place in the course of the export of goods out of the territory of India.

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Penultimate sale for export [Section 5(3)]

Sale preceding the sale occasioning export is also deemed to be in the course of export u/s 5(3). The conditions to be fulfilled:

- a) The sale is for purpose of complying with the agreement or order in relation to export.
- b) It is made after the agreement or order in relation to export.

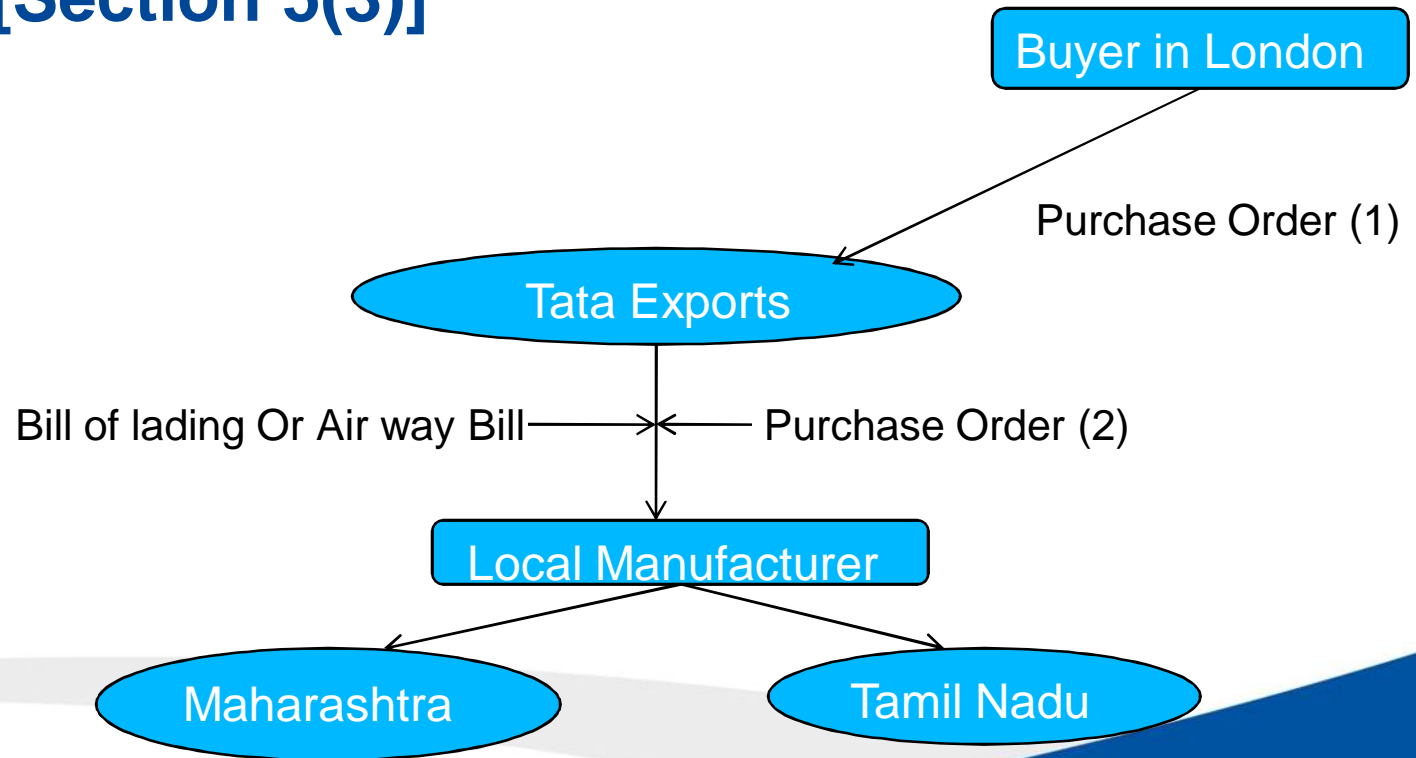
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Penultimate sale for export

- c) Same goods which are sold in penultimate sale should be exported.
- d) The exporter has to submit Form H to the dealer who is supplying the goods for export.

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Form H [Section 5(3)]



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Form H

The exporter who exports the goods which he has purchased from other dealer has to submit Form H to the dealer supplying the goods.

- i. The selling dealer must obtain Form 'H' from the exporter.
- ii. The Form must be duly filled in.
- iii. Certificate must show the number and date of the agreement or order of the foreign buyer to whom the said goods are supplied.

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Form H

- iv) At the end of the Schedule 'verification' clause is incorporated and is to be signed by the Exporter.
- v) Below the signature, name of the person signing the certificate and his status has to be stated.
- vi) Copy of the Bill of Lading to prove the Export should be attached to this Form.

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Issues under Form H

- Purchase under Form 'H' is not valid for stocking goods without any order.
- Purchase for Form 'H' is only for trading.

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Purchases against Form H (Form 'H' Purchase)

Sr. No.	Date of Invoice	Invoice No	Name of Dealer	Place of Dealer	VAT / CST TIN	Qty (in Carats)	Amount (Rs.)

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Purchases against Form H (Export)

Date of PO	PO No.	Date of Export Invoice	Invoice no.	Name of Customer	Place of Customer	Qty (in Carats)	Amount (Rs.)	Name of the Airport (Dispatch)	Name of the Airline Co.	Bill of Lading / Airway Bill No

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Form H is mandatory

The Finance Act, 2005 inserted sub-Section (4) in section 5. It reads as follows: “The provision of sub-section (3) shall not apply to any sale or purchase of goods unless the dealer selling the goods furnishes to the prescribed authority in the prescribed manner a declaration duly filled and signed by the exporter to whom the goods are sold in a prescribed form obtained from the prescribed authority”
This sub section has come into effect from 13th May, 2005.

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Submission of Form H to the Authority

Form H has to be submitted to the first Assessing Authority at the time of assessment.

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Export Sale by transfer of documents

After the goods have crossed the customs frontier of India, the goods can be sold by way of transfer of documents of title to goods and it will be treated as export sale.

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Sale to Mumbai High is it Export?

- In the case of Larson & Turbo Limited (in the state of Gujarat), there was an issue about works contract at Mumbai High. Gujarat government levied CST on the transaction. The High Court ruled that there was no inter-state movement. Hence, CST would not be applicable

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Sale to Mumbai High is it Export?

- Bombay High court decision in case of Pure Helium (India) Ltd. (2012 49 VST 12) where the Hon. High Court held that, “Bombay High is not a foreign destination.”

Therefore, these sales are not to be considered as export or interstate sales.

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Thank You

CA Madhukar Khandekar