

Analytical Speaking

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VAT on lease and hire purchase transactions in Maharashtra

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At some point of time in the past, the instruments of lease and hire purchase fell out of popularity largely because of tax issues. Among tax issues, the major issue was sales-tax, as sales tax on lease and hire purchase transactions amounted to an incremental burden. When VAT laws were introduced, it was largely expected that the incremental burden due to interposition of lease/HP transactions in the chain of procurement of goods will be largely eliminated, as taxes paid at the time of purchase are allowed to be offset against taxes payable on the lease/ HP receivables. However, while that is the true spirit of VAT laws, state laws, apparently without any great philosophy, enacted laws which completely spoil the competitiveness of lease and HP transactions. Lease and HP have been in the doldrums for several years now, but now that they are reviving, it is very important to understand whereall does the pain lie in case of lease /HP transactions.

This article makes a quick review of VAT laws in case of lease and HP transactions in Maharashtra.

Section 2(24) of the Maharashtra Value Added Tax (Levy and Amendment) Act, 2005 defines “sale” that includes a delivery of goods on hire-purchase and the transfer of the right to use any goods.

Section 2(32) defining “turnover of purchases” and section 2(33) defining “turnover of sales” says that in respect of goods delivered on hire-purchase or any system of payment by installment or in respect of the transfer of the right to use any goods for any purpose (whether or not for a specified period) the amounts of purchase price/ sale price paid or payable/ received or receivable during a given period shall mean the amounts paid/ received or, as the case may be, due and payable during the said Period.

The leases are taxable in Maharashtra as per the Maharashtra VAT (Levy and Amendment) Act, 2005. Before the introduction of VAT Act, there was an act namely “the Maharashtra Sales Tax on the Transfer of the Right to use any goods for any Purpose Act, 1985” for governing the lease transactions. The said act repealed on introduction of VAT.

Section 4 of the Maharashtra VAT Act says about the tax payable by a dealer which states that the tax so payable for any tax period shall be reduced by the amount of input tax credit (set off) for which the dealer is eligible during the same tax period. There is no specific provision barring the lessor to claim input tax credit and hence it will be allowed.