

Analytical Speaking

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VAT on lease and hire purchase transactions in Punjab

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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 Punjab.

“Sale” is defined u/s 2(zf) of the Punjab VAT Act and it includes delivery of goods on hire-purchase and transfer of the right to use i.e. lease. As discussed under Delhi, the expressions “delivery of goods” or “transfer of goods” would mean the same.

“Gross turnover” as defined u/s 2(m) of the Punjab VAT Act read with sec 2(za) on “sale price” says that the value to be included in the turnover on account of hire purchase shall be inclusive of all that the hirer pays, including payment made to any other person, like security deposit, down payment, or other initial payments.

However rule 15(1) of the Punjab VAT Rules says that to determine the taxable turnover of sales, a person, shall deduct from his gross turnover of sales, the following which inter alia includes amount, charged separately as interest in the case of a hire-purchase transaction or any system of payment by installments. Hence, if the vendor/ nbfc charges the interest separately then the interest portion will not suffer the VAT.

The leases are taxable in Punjab as per the general scheme of the Act. The Punjab VAT Act does not say anything regarding the tax credit in respect of lease transaction and hence in the absence of any specific provisions, tax credit will be allowed. A lessor who is a registered dealer purchasing goods and paying tax thereon in Punjab may be able to offset any tax on the subsequent sale by him.