THE GEM & JEWELLERY EXPORT PROMOTION COUNCIL

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Record of discussions held at the Seminar regarding Trade Circular on F Forms issued by Sales Tax Commissioner on 15th May, 2010 at the "Liquid Lounge", Hotel Karma, Mumbai.

Shri Sabyasachi Ray, Executive Director welcomed all the members present at the Seminar and informed them that F Forms are mandatory for all the dealers in Maharashtra for transaction of Inter - State transfers (not by way of sale) including job work and goods return. He welcomed Chairman to preside over the Seminar.

Shri Vasant Mehta, Chairman GJEPC and Shri Sabyasachi Ray, Executive Director, GJEPC welcomed Speaker Shri N. V. Tapare, Advocate and Shri S.A. AnajwalLa, Tax Consultant and all other presented delegates.

The list of members present at the Seminar is enclosed as Annexure I.

Shri Vasant Mehta presided over the meeting and requested to Shri N.V. Thapare to share his valuable thoughts on the same issue.

Chairman informed them that after issuing Trade Circular No.VAT/MMB/1008/15/Adm-6/B/dated 11.01.2010 members were facing problems.

Chairman requested to Shri N.V. Tapare to share his valuable thoughts on the same issue.

Shri N.V. Tapare informed the members that recently, the Hon'ble Supreme Court of India has upheld the judgement delivered by the Hon'ble Allahabad High Court on 17 August 2007 in the case of M/s. Ambica Steels Ltd. V/s The State of Uttar Pradesh. In this case it was decided that it would be necessary to furnish declarations in Form 'F' for inter-state movement in respect of goods sent for processing or goods received after processing though the movement is on Principal to Principal basis.

Mr. Tapare, Advocate, M/s. Suresh Tapare & Associates explained the audience about the provisions regarding CST Act ,Section 6A and the Forms as under:-

The Commissioner vide Circular No.2T of 2010 dated 11.1.2010 has withdrawn the Circular No.16T dated 20.2.2007 and No.5T dated 29.1.2009 on the basis of Supreme Court judgement in the same Ambika Steels Ltd., reported in 24 VST 356. The effect is that the dealers in Maharashtra are now required to receive Forms F against transfers made to dealers outside the state on principal to principal basis.

The C.S.T. Act was amended in 1972 with effect from the 1st April, 1973, by inserting a new action viz. Section 6A. The Section 6A of the CST Act deals with those contingencies where a dealer has sent any goods from one State to another, and not by way of sale, to the places of his business or to his agent or to his principal. When a dealer sends any goods to another person located in a different State for job work or for manufacturing etc. the transaction will normally be on a principal to principal basis with an independent operator and not on a principal to agent basis.

Prior to 2002 there was no F Forms. After 2002, if it is not for sale F Forms are mandatory for movement of goods from one state to another for job work or processing F Forms are mandatory.

Shri N.V. Tapare, Advocate opined that the companies have to open branch offices in other states or appoint agents who are registered in respective states. Despatch proof should be kept with the party. The Assessment authority will accept the F Form if there is proof.

He also suggested that the firms should get the Registration Certificate from Central Sales Tax Office. Otherwise they can approach the Central Government and get the amendment of the Section 6 A of the Trade Circular so that the same is not required.

He mentioned that circular cannot be used for legal interpretation of the provisions of law, as it is clarificatory in nature.

The following implications emerged as a result of this decision:

In case of a dealer who sends goods for processing:

- Every inter-state movement of goods for job work / processing will have to be supported by CST declaration form 'F'.
- On receipt of processed goods the dealer will have to issue CST declaration form 'F' to the job worker / processor.
- ❖ Dealer will be liable for CST for non-submission of CST declaration form `F' for such transactions.

In case of a job worker / processor who receives goods for processing:

- Every job worker / processor, who otherwise was not liable for CST registration, will have to obtain CST registration for obtaining form 'F'. Further as a consequence to this, he may be liable for compulsory registration under VAT regulations and required to comply with all requirements under both the regulations.
- ❖ Job worker / processor will have to issue form `F' to the owner of goods on receipt of goods.

Q & A Session

Question-Answer Section was also conducted where members asked different types of questions connected to F Forms to which answers were provided by the Consultants and the Council. Some of the questions and answers are as under:-

Q1 – Do we need to file Form F in the case of 'goods sent for approval'?

Ans- Yes, if any **movement** of goods happen from one state to another state other than by way of sales it is mandatory to obtain form 'F' declaration.

Q2- What is the solution in case 'Karigars' are not willing to obtain Form F?

Ans- No Interstate movement of goods is allowed without filing Form F.

Q3- Do we need to file Form F in the case of 'goods sent for Assortment?

Ans- Yes, any movement other than sale is required to comply with Form F.

Q4- I have imported 500 cts goods. The same is sent to other party for labour work . He has polished the goods and sent the same as 3-4 parts in different time. Do we need F form all the time.

Yes you have to file Form F in all the movement.

All the questions raised by the members were duly answered. Shri N.V. Tapare also informed the members present that if there is any other queries they can also approach the Sales Tax Commissioner directly and get the clarification.

After that the Chairman felicitated Shri N.V.Tapare and thanked him for spending his valuable time for the gem and jewellery industry. He also appreciated Shri Vipul Shah's efforts to conduct this Seminar. Shri Konal Doshi felicitated Shri S.A. Anajwalla.

The Seminar ended with a vote of thanks to the Chair.

Sd/-

SABYASACHI RAY EXECUTIVE DIRECTOR

cc: All Members of Committee of Administration /Regional Chairmen/Govt Nominees / co-opted members/ Conveners of Technical & Education Sub- Committees and Conveners of Sub-Committees.