CHAPTER III

A BRIEF ACCOUNT OF THE SALES TAX STATUTES OF DIFFERENT STATES

All the states in the Indian Union have sales tax statutes.

A brief account of the state sales tax statutes is necessary to understand the effect of taxation on interstate movement of commodities. As has been stated in the first chapter, heavier burden on interstate commerce than intrastate commerce may fall because of multiplicity and diversity of sales tax laws, though there may not be any intention to discriminate against interstate commerce. In that chapter it was also stated that, although the problem of multiple taxation of the same interstate sale transactions by different states has been solved by Art. 286, yet a commodity figuring in interstate commerce may still be subject to multiple taxation by the exporting state in its intrastate sale, by the Union in interstate sale, and by the importing state again in intrastate sale.

Before taking up the specific points and their variations in different states, certain general observations which apply to all the state statutes may be made here. Every sales tax statute requires the registration of certain dealers and only registered dealers are liable to the government for tax, though they can collect the tax from the purchasers. Registration requirement is based on the quantum of sale turnover of the dealer.

For purposes of taxation, commodities can be classified into declared goods and non-declared goods. Section 14 of the Central Sales Tax Act specifies declared goods. They are: coal, cotton, cotton fabrics, cotton yarn, hides and skins, iron and steel, jute, oil-seeds, rayon or artificial silk fabrics, sugar, tobacco, woollen fabrics, and silk fabrics. Section 15 of the same Act prescribes conditions and restrictions with regard to the intrastate taxation of the declared goods. Thus it is provided that (a) no state shall impose a tax exceeding 2 per cent on sale or purchase of declared goods inside the state, and such tax shall not be levied at more than one stage; (b) where a tax has been levied on sale or purchase of such goods inside the state and such goods are subsequently sold in interstate commerce, the tax so levied shall be refunded. Thus on declared goods, states are empowered to levy only single point tax at a rate not exceeding 2 per cent, the tax to be refunded when goods are sold in interstate commerce.

When the rate of taxation and kind of levy are spoken of in the subsequent pages in this chapter, they refer to non-declared goods. With regard to taxation of declared goods, observations made in the preceding paragraph apply.

Further, it may be noted that on the following commodities, viz., sugar, tobacco, cotton fabrics, rayon or artificial silk fabrics, woollen fabrics, and silk fabrics instead of sales tax by the states, additional duties of excise are levied by the Union. These duties, after being collected by the Union are distributed to the states in accordance with certain formula.[1]

Some of the important features of the state sales tax acts are noted here in a summary way. The details are stated statewise in the appendix to the chapter.

Systems of sales tax in states: Sales tax laws in various states in India have taken different forms. Five states Assam, Delhi, East Punjab, Orissa and West Bengal, have single point tax on the last sale in the series of sales, that is to say, a commodity bears tax only once at the last sale irrespective of the number of earlier sales.

Two states, Madhya Pradesh and Rajasthan, have single point tax and the tax is generally levied at the first sale by a manufacturer or an importer and subsequent sales after the first sale are exempt from tax.

The States of Maharashtra and Gujarat have, depending on the commodity, single point tax on the first sale, or single point tax on the last sale, or a double point tax on the first sale and the last sale.

Remaining states have a combination, depending on the commodity, of single point tax on the first sale, single

1. See *infra*, Chap. VII.

point tax on the last sale, and multiple point tax.[2] Thus three states, Madras, Mysore and U.P., have single point tax on the first sale on some commodities and a multiple point tax on others.

Andhra Pradesh has, depending on the commodity, multiple point tax, or a single point tax on the first sale, or a multiple point tax along with a special single point tax[3] on the first sale.

Bihar has multiple point tax along with a special single point tax on the last sale, or only multiple or single point tax on commodities specified by the state governments.

Kerala has, depending on the commodity, multiple point tax, or single point tax on the first sale, or a multiple point tax along with a special single point tax.

Taxation in the exporting state prior to interstate sale: In two states, Delhi and East Punjab, a commodity ultimately sold in interstate commerce will not bear any local tax even though intrastate sale of the commodity has taken place before the interstate sale. These states have single point tax on the last sale. So long a sale is made to a regis tered dealer for resale by him either in intrastate or interstate commerce, it is not taxed. Accordingly if a registered dealer makes an interstate sale of a commodity purchased by him locally, no local tax will be borne by it.

In Bihar in the same situation the only exemption a commodity will enjoy will be from the burden of single point sales tax.

In two states, Maharashtra and Gujarat, no local tax will be borne by the commodity if it is bought by a local dealer for purpose of interstate sale. In these states, the commodity may bear the local first stage single point tax if more than one intrastate sale has taken place. This would, however, not be the usual situation since a commodity sold in interstate commerce is not likely to have more than one intrastate sale.

2. A multiple point tax is a tax which is levied on every sale in the series of sales.

3. The special tax may be called the single point tax, since this tax is levied only once in the series of sales.

The States of Kerala and Uttar Pradesh, allow a rebate of half the tax levied on a number of commodities ultimately sold in interstate commerce.

In the remaining states the commodity will bear the local tax, the extent and limit of the tax depending on the kind of sales tax system, rate of tax and the number of local sales.

Taxation of sales of commodities to a manufacturer for manufacture and then resale of the manufactured commodity: Three states, Delhi, East Punjab and West Bengal, exempt such sales in case of all commodities.

In the States of Maharashtra and Gujarat, exemption is granted in case of all commodities except a few.

In Rajasthan exemption is given to such sales in case of 52 industries.

Assam gives exemption to such sales on the condition that purchasing manufacturer makes the sale of the finished product within the state and not interstate.

Madhya Pradesh and Madras levy a low rate of 1 per cent on such sales.

Other states do not give exemption or concession to such sales.

Turnover limit for imposing tax: Only registered dealers are liable to the government for tax. States usually provide for dealers to have some minimum turnover before they are required to register. The turnover limit varies from state to state.[4] Even though there is generally a requirement of a minimum turnover for registration, some states[5] provide that a dealer registered under the Central Sales Tax Act and purchasing commodities in interstate commerce at a concessional rate is liable to pay tax *on sale of such commodities* irrespective of his turnover. Some States,[6] it may be noted, provide that a dealer registered under the Central Sales Tax

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4. For details see appendix to the chapter.
5. Assam, Bihar, Madras, Madhya Pradesh, Uttar Pradesh, Maharashtra and Gujarat.
6. Delhi, East Punjab, Mysore, Orissa and Rajasthan.

Act is liable to pay the tax *on all sales* irrespective of the quantum of his turnover.

Rates of tax: The rates vary from state to state. Generally speaking, the rate of multiple point tax varies from $\frac{1}{2}$ per cent. to 2 percent. and the rate of single point tax from 4 per cent to 7 per cent. On a number of commodities contained in 15 entries, the states generally levy a tax 7 per cent. This has been done at the suggestion of the Central Government.

Exemption of commodities from tax: Every state has a list of commodities on which no tax is levied. In recent years the number of commodities in the list has gone down considerably. The exemption is confined mostly to items of food and a few other necessities of life, and also products of certain cottage and village industries as part of a scheme to encourage such industries.

Establishment of check-posts: A number of states[7] provide for the establishment of check-posts at different routes within the state to check evasion of tax.

7. Andhra Pradesh, Assam, Bihar, Delhi, East Punjab, Madras, Madhya Pradesh, Rajasthan, Uttar Pradesh.