

- B.A.LL.B Five Years Course  
II semester  
Paper –V special contract  
(28-3-2020)

1. Indemnity by Governments during international transactions

# **INDEMNITY IN CASE OF INTERNATIONAL TRANSACTIONS**

**Indemnity clauses are debated deeply and focused upon during negotiation of commercial contracts. Serious consequences arise due to a poorly negotiated indemnity clause.**

**It is important to understand whether common law principals apply for interpreting indemnity clauses or is the Contract Act self sufficient & exhaustive?**

**The Bombay High Court in *Gajanan Moreshwar Parelkar v. Moreshwar Madan Mantri [(1942) BomLR 704]*, while interpreting indemnity provisions clearly held that the Contract Act is not exhaustive and common law principals are to be relied upon. Hence, unless there is a conflict with the Contract Act or any judicial decisions rendered by the Courts in India, the common law principals pertaining to interpreting contracts will continue to be applicable to indemnity provisions.**

# **INDEMNITY BY GOVERNMENTS DURING INTERSTATE TRANSACTION**

**❖ State Government cannot levy the tax on inter-State Transactions however all such transaction are administered by the State Government that's why provisions relating to State's VAT in many situations are applicable even in such transactions.**

© As per section 8(1) (b) of CST Act 1956 sales tax liability on inter-state sales is at the rate of 2 percent or 'rate of tax for sale within State' whichever is lower, provided such sale is affected to a registered dealer and goods are covered in the registration certificate of the purchasing dealer. Otherwise the rate of tax would be the rate which is applicable on the goods sold within that State.

Thus CST rate at the rate of 2 percent (i.e. concessional rate) can be claimed if:

- (i) Sale has been made to **registered dealer**; and
- (ii) Goods sold are **covered in the registration certificate (RC)** of the buying dealer.