

From

Excise & Taxation Commissioner,
Haryana, Panchkula.

To

All the Dy. Excise & Taxation Commissioners (ST),
in the State of Haryana.

Memo No. 2464 /ST-I,
Panchkula, dated the 20-7-18

Subject: Regarding circulation of Clarification in the case of M/s Disha Jute & Allied Products (P) Ltd., Bhiwani, having TIN 06201108749.

MEMORANDUM

A copy of clarification order issued by the Additional Chief Secretary to Government, Haryana, Excise & Taxation Department under section 56(3) of the Haryana Value Added Tax Act, 2003 sought by M/s Disha Jute & Allied Products (P) Ltd., Bhiwani is sent herewith for information.

Excise & Taxation Officer (P/R),
for Excise & Taxation Commissioner,
Haryana, Panchkula.

Endst. No. 2465 / ST-I, Panchkula, dated the 20-7-18

A copy alongwith a copy of clarification is forwarded to the following for information and necessary action:-

1. All the Jt. Excise & Taxation Commissioners (Division/Range) in the State of Haryana.
2. All the Joint Excise & Taxation Commissioners (Appeals) in the State of Haryana.
3. The Senior Deputy Accountant General (Audit), Haryana, Chandigarh.
4. The Dy. Excise & Taxation Commissioner (Vigilance), Haryana Vigilance Bureau, Plot No.1, Sector-23, Panchkula.
5. PS/ACSET.

Excise & Taxation Officer (P/R),
for Excise & Taxation Commissioner,
Haryana, Panchkula.

Endst. No. 2466 / ST-I, Panchkula, dated the 20-7-18

A copy alongwith a copy of clarification is forwarded to the following in the Head Office for information and necessary action:-

1. All the Addl. Excise and Taxation Commissioners.
2. All the Jt. Excise and Taxation Commissioners.
3. The Jt. Director (L)-I and II.
4. The Dy. Excise and Taxation Commissioners.
5. DA-I and II.
6. DDA-I & II.
7. PS/PA to ETC.
8. Assistant (C) (Sh. Vishal, Asstt.) for uploading on website.
9. ST-II only (For adding in The Annual Sales Tax Circular, 2018).

Excise & Taxation Officer (P/R),
for Excise & Taxation Commissioner,
Haryana, Panchkula.

**BEFORE THE ADDITIONAL CHIEF SECRETARY TO GOVERNEMENT,
HARYANA, EXCISE AND TAXATION DEPARTMENT UNDER SECTION 56(3)
OF HARYANA VALUE ADDED TAX ACT, 2003.**

ORDER OF CLARIFICATION:

QUERIST: M/s Disha Jute & Allied Products (P) Ltd., Bhiwani.

An order of clarification in the case of M/s Jasch Plastics India Ltd., Kundli, Sonapat was passed by the Government under Section 56 of the Haryana Value Added Tax Act, 2003 on 22.03.2017. The said order of clarification was set aside and remanded for fresh decision by the Haryana Tax Tribunal vide order dated 18.08.2017, on the ground that present appellant (i.e. M/s Disha Jute & Allied Products (P) Ltd.) is aggrieved by the impugned clarificatory order, therefore, it would be in the fitness of things if the grounds raised by the present appellant are also considered by the State Government.

2. The applicant in the case of M/s Jasch Plastics India Ltd. had sought clarification as to ***whether the Non Woven Fabric is tax free under entry 51 of Schedule B of Haryana Value Added Tax Act, 2003.***

3. In the instant case, as per statement of facts, the applicant dealer (M/s Disha Jute & Allied Products (P) Ltd.) is engaged in manufacturing of Non Woven Fabric from fibre grade Polypropylene Granules by adopting the Spun Bond technology of Technical Textile. As per understanding of the applicant, Non Woven Fabric is covered by entry 51 of Schedule B.

4. It has been submitted by the appellant that the word 'textile' in entry no. 51 of Schedule B must be interpreted according to its popular sense, "which people conversant with the subject-matter with which the statute is dealing would attribute to it."

5. The appellant has cited definitions of Non Woven Fabric as given by various technical organizations and experts. As per the appellant ASTM (American Society for Testing Materials) defines Non Woven as *“a textile structure produced by bonding or inter-locking of fibers, or both, accomplished by mechanical, chemical, thermal or solvent means, and combinations thereof”*, Ministry of Textiles classifies Spun Bond Non Woven Fabric under the head technical textiles.

6. The appellant has also submitted a certificate issued by DKTE Centre of Excellence in Nonwovens which certifies that *PP Non Woven Fabrics are manufactured from fiber grade textile polymers and PP Non Woven Fabric is classified under Technical Textiles and the HS code is 5603. Hence, this material is a textile material and not plastics*. Another similar certificate submitted by appellant has been issued by the Technological Institute of Textile & Sciences, Bhiwani, Haryana certifying that *Non Woven Fabric, manufactured through Spun bond technology, comes under textile category*.

7. The appellant has also placed reliance on various judgements on textiles and textile products such as the judgement of the Supreme Court of India in the case of Porrits & Spencers 42 STC and A. R. Plastics Pvt. Ltd v/s State of Haryana decided by the Punjab & Haryana High Court.

8. The matter has been re-examined. The appellant has claimed that the product, 'Non Woven Fabric' is covered by entry 51 of Schedule B and, therefore, is exempted from levy of VAT. For ready reference, entry 51 is reproduced as under:

“All varieties of cotton, woollen or silken textiles including rayon, artificial silk or nylon but not including such carpets, druggets, woollen durrees, cotton floor

durrees, rugs and all varieties of dryer felts on which additional Excise Duty in lieu of sales tax is not levied.”

9. Non woven fabric is manufactured from Polypropylene Granules by adopting ‘Spun Bond technology’. In this technique PP Granules are fed to the Hopper and at a certain temperature they are passed through the extruder and melted. The molten polymer is filtered and passed through spinning unit and directly converted to numerous filaments called Polypropylene filaments. The filaments are laid in the form of continuous web on a conveyor belt. Under controlled pressure, thermal bonding of filaments eventually results into formation of non woven fabric.

10. A bare reading of the various definitions of Non Woven Fabric, given by technical institutions and experts, points to the fact that Non woven fabric is a fabric which is manufactured by Spun Bond Technology. Unlike conventional textiles used traditionally for clothing or furnishing, non woven fabric are used basically on account of their specific physical and functional properties. They represent a multi-disciplinary field with numerous end user applications.

11. The Hon’ble Supreme Court in the case of M/s Porritts and Spencer (Asia) Ltd., on which the appellant has also relied, had the occasion to discuss the term ‘textiles’. The Hon’ble Court observed that:

“Where a word has a scientific or technical meaning and also an ordinary meaning according to common parlance, it is in the latter sense that in a taxing statute the word must be held to have been used, unless contrary intention is clearly expressed by the Legislature. The reason is that the Legislature does not suppose our merchants to be ‘naturalists, or geologists, or botanists’. In the instant

case the word 'textiles' is not sought by the assessee to be given a scientific in preference to its popular meaning. It has only one meaning namely a woven fabric and that is the meaning or technical meaning which it bears in ordinary parlance.

The concept of 'textiles' is not a static concept. It has, having regard to newly developing materials, methods, techniques and processes, a continually expanding content and new kinds of fabric may be invented which may legitimately, without doing any violence to the language be regarded as textiles.

The word 'textiles' is derived from the Latin 'texere' which means 'to weave' and it means any woven fabric. When yarn, whether cotton, silk, woollen, rayon, nylon or of any other description as made out of any other material is woven into a fabric, what comes into being is a 'textile' and it is known as such. It may be cotton textile, silk textile, woollen textile, rayon textile, nylon textile or any other kind of textile. The method of weaving adopted may be the warp and woof pattern as is generally the case in most of the textiles, or it may be any other process or technique. There is such phenomenal advance in science and technology, so wondrous i.e. the variety of fabrics manufactured from materials hitherto unknown or un-thought of and so many are the new techniques invented for making fabric out of yarn that it would be most unwise to confine the weaving process to the warp and woof pattern. Whatever be the mode of weaving employed, woven fabric would be 'textiles'. What is necessary is no more than weaving of yarn and weaving would mean binding or putting together by some process so as to form a fabric. A textile need not be of any particular size or strength or weight. The use to which it may be put is also immaterial and does not bear on its character as a textile."


12. The minute reading of the Judgment of Hon'ble Supreme Court exhibits the foresight of the judgment. On reading the judgment in totality, a

different meaning emerges than that understood in the original order of clarification (in the case M/s Jasch Plastics India Limited). The court observes that though the method of weaving adopted may be the warp and woof pattern as is generally the case in most of the textiles, but, there is such a phenomenal advance in science and technology that a variety of fabrics are being manufactured from materials hitherto unknown or un-thought of. Therefore, it would be unwise to confine ourselves to the traditional definition of 'textiles'. Further, the essence of the aforesaid judgment is to recognise different types of techniques and patterns for weaving. The Hon'ble Court has observed in the judgment that weaving would mean binding or putting together by some process so as to form a fabric. Thus as per interpretation of the Hon'ble Apex Court a fabric manufactured by technique of binding together of fibres will fall in the category of textiles. In the instant case, non-woven fabric is manufactured by bonding technique formed under controlled pressure and temperature. The thermal bonding of filaments eventually results into formation of non-woven fabric as already explained above.

13. In view of the interpretation of the term 'textile' by the Hon'ble Supreme Court and the fact that the Non Woven Fabric is considered a technical textile, it is clarified that Non Woven Fabric is covered by Entry 51 of Schedule B and are exempted from levy of VAT.

The matter is clarified accordingly.

Chandigarh
Dated the:


(SANJEEV KAUSHAL)
Additional Chief Secretary to Government,
Haryana, Excise & Taxation Department.

16/07/18