

**ORDER OF CLARIFICATION MADE BY SHRI RAMENDRA JAKHU,
FINANCIAL COMMISSIONER & PRINCIPAL SECRETARY, GOVERNMENT
OF HARYANA, EXCISE AND TAXATION
DEPARTMENT, UNDER SECTION 56(3) OF THE
HARYANA VALUE ADDED TAX ACT, 2003**

**Querist: Clarification under section 56(3) of the Haryana VAT Act -
M/s S.R. Foils and Tissue Ltd. Plot No.02 Kadipur, Industrial
Gurgaon TIN No.06561930432.**

M/s S.R. Foils and Tissue Ltd., Plot No.02 Kadipur, Industrial Area Gurgaon holding TIN No.06561930432, the querist is a dealer registered under Haryana VAT Act. The applicant has sought clarification under section 56(3) of the Haryana VAT act as to i) whether tissue papers and its forms namely, tissue paper, napkin, toilet paper rolls, facial tissues and kitchen wipes are covered under entry 57 of Schedule 'C' appended to Haryana VAT Act and ii) VAT rate applicable on these goods. In the statement of relevant facts having bearing on the aforesaid question, the applicant has explained that he is engaged in business of manufacture and sale interalia of tissue paper and its various kinds and is supplying its products to retailers such as big bazaar etc. The applicant has explained the elaborate process of manufacture of these products. In the statement containing the applicant's interpretation of law and facts the applicant has explained that the aforesaid products manufactured and sold by him are covered under entry 57 of Schedule 'C' and hence attract VAT @ 4%. The applicant has further explained that entry in the statute should be given widest amplitude and that entry 57 of Schedule 'C' viz paper, paper board and news print includes paper in all its forms. The applicant has further relied on judgement delivered by the Apex Court and various High Courts in support of his contention and has specified relied on judgement delivered by the Hon'ble Supreme Court in case of Commissioner of Central Excise-I, New Delhi V/s S.R. Tissues Pvt. Ltd. and another 2005 (186) ELT 385 SC wherein, as per the contention of the applicant the issue has been settled in favour of the appellant.

The matter has been examined. Entry 57 of the Schedule 'C' appended to Haryana VAT Act includes "paper, paper board and news print".

From the entry itself it is clear that the entry speaks of a board generic terms paper, and paper board. The entry doesn't convey any sense as to the use and application of such papers. Papers covered under this entry may be craft paper, news print paper etc. However, the products manufactured and sold by the applicant viz tissue paper, napkins, toilet paper rolls, kitchen wipes and facial tissues are specific product meant for specific purpose. If paper and paper boards are genus, tissue paper, napkin, toilet paper rolls, facial tissues and kitchen wipes are specie of this genus. Further, in chapter 48 of the Central Excise Tariff of India pertaining to paper and paper boards etc. toilet paper and similar paper, cellulose wadding or webs of cellulose fibres of a kind use for house hold or sanitary purposes find separate mention under Tariff items No.4818 of chapter 48.

As to the Supreme Court judgement in case of S.R. Tissues Pvt. Ltd. and another 2005(186)ELT 385 SC relied by the applicant, the point in issue in the said judgment was as to whether the process of slitting/cutting of jumbo rolls of plain tissue paper/aluminum foil into similar size will amount to manufacture or not and in para 26 of the judgment in the case was remitted back to the Commissioner to ascertain whether the assessee had the requisite infrastructure, facility, machine etc. for manufacturing fragmented and wet tissue and, if so whether the process amounts to manufacture.

Thus entry 57 of Schedule 'C' includes paper and paper board or news print in raw form, viz inputs for manufacture of specified products and tissue papers and its forms namely tissue paper, napkin, toilet paper rolls, kitchen wipes and facial tissues which are made from a class of papers of characteristic gauzy texture, in some cases fairly transparent, light weighted and subjected to fumigation and scenting, are not covered under the aforesaid entry and hence attract VAT @12.5% being unclassified goods.

Matter is clarified accordingly.

(RAMENDRA JAKHU)

Chandigarh
Dated: 18.01.10

Financial Commissioner & Principal Secretary
to Govt. Haryana, Excise & Taxation Department

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