

**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**

Queriest: Clarification under section 56(3) of the Haryana VAT Act - M/s Sony India Pvt. Ltd. Sector-15- Part-II Gurgaon holding TIN No.06281933108.

M/s. Sony India Pvt. Ltd. (the Company) is a registered dealer under Haryana VAT Act 2003 holding TIN No.06281933108 and has sought clarification under section 56(3) of the Haryana VAT Act. The company is engaged preliminary in trading of Consumer Audio-Visual, Information Technology products like Television, Music system, laptop etc. In certain instances the goods sold by the company to its distributors/dealers are received back by the company, being goods returned. The company has sought clarification as to whether there is any time frame for claiming deduction from the taxable turnover on account of return of goods sold, under the Haryana VAT Act, in case the goods are returned by) a purchasing dealer not registered under the Haryana VAT Act or any other person. In the statement containing the applicant's interpretation of law or facts the applicant has stated that, as per provisions of Haryana VAT Act 2003;

- a) In case the goods are returned by a registered purchasing dealer, the deduction on account of sales returned can be claimed without any time limit or irrespective of time frame in which goods are returned.
- b) In case the goods are returned by an unregistered purchasing dealer; the deduction on account of sales returned can be claimed only if the goods are returned within a time frame of 180 days from the date of sale. Accordingly, in case the goods are returned after a time period of 180 days from the date of sale, no deduction can be claimed from the taxable turnover.

The applicant has relied on relevant provisions under Haryana VAT Act and Rules there under viz section 6, rule 22 and rule 25 of the Haryana VAT Rules. Rule 22(3) of the Haryana VAT Rules restricts period of return of goods in case of sales to unregistered dealers to 180 days. According to this rule no claim of return of goods sold to any person who is not a registered dealer shall be admissible if the goods are returned after the expiry of a period of 180 days from the date of sale. Rule 22(4) further lays down that no claim of return of goods sold to any person shall be admissible if the claim is not made in the return for the quarter in which the goods have been returned. As to the time limit in regard to admissibility of goods returned in case

of sales to registered dealer, the relevant rules and the sections are silent as to the time limit. The matter has to be seen in totality. Section 6(i) provides for deduction from the gross turnover in respect of turnover of sale of goods returned to a dealer subject to such restrictions and conditions as may be prescribed and restriction of 180 days in case of unregistered dealer has been prescribed under rule 22(3), as explained above. However, rule 16(2) of the Haryana VAT Rules provides of filing of annual VAT return, VAT R-2, by a dealer registered under Haryana VAT Act and the same is to be filed on or before 31st of October next viz, for the period ending 31st of March, annual return has to be filed on or before 31st October next, i.e. within 7 months of the completion of the financial year. The annual return VAT R-2 is a declaration as to truth and correctness of the statement of accounts for that year and is based on the regular books of account maintained for the year. Thus, while determining the turnover for a particular year informed given in VAT R-2 is material. Thus, over all scheme of the Haryana VAT Act and Rules thereunder visualized that adjustments if any in regard to turnover for an assessment year pertaining to any errors in the final accounts or return of goods have to be finalized at the time of filing of annual return VAT R-2. Though there is no specific provisions as to the time limit in regard to return of goods sold to a registered dealer, the period can not be indefinite. In view of the position discussed above it can safely be presumed that time limit for admissibility of return of goods in respect of sales to a registered dealer, as per provisions of Haryana VAT Act and Rules thereunder is time for filing of Annual VAT Return R-2 viz 31st October next of the financially year closing on 31st of March, whereas time limit in case of goods sold to un-registered dealer is 180 days as provided under rule 22(3). Thus both the queries raised by the applicant are answered. Matter is clarified accordingly.

Chandigarh
Dated:

(RAMENDRA JAKHU)
Financial Commissioner & Principal Secretary
to Govt. Haryana, Excise & Taxation Department

Issued vide Letter No. 155-157/ST-1, Dated 16-2-2010