

ORDER OF CLARIFICATION UNDER SECTION 56(3)(b) OF THE HARYANA VALUE ADDED TAX ACT, 2003-ENTRY 2 OF SCHEDULE B APPENDED TO THE ACT.

M/S MGRM Medicare Limited, Gurgaon, have referred to entry 2 of Schedule B appended to the Haryana Value Added Tax Act, 2003, and have intimated that they have been manufacturing physical rehabilitation products/ aids, also called splints in common parlance. He has sought clarification as to whether the products, as detailed hereunder, are covered under the entry at serial no. 2 ibid or not: -

1. Cervical Splints;
2. Shoulders, arm and clavicle splints;
3. Wrist and forearm splints;
4. Rib splints;
5. Back splints;
6. Abdominal splints;
7. Knee splints;
8. Finger splints;
9. Emergency splints;
10. Ankle splints;
11. Conditioning splints;
12. Ambulatory splints, and
13. Fracture Braces.

In this connection, Entry 2 in Schedule B appended to the HVAT Act, 2003 reads as under: -

“2. Aids and implements used by handicapped persons.”

The simple reading of the entry would reveal that it refers to the items used by **handicapped** persons. As per the dictionary meaning **‘handicapped’** means **‘those who are physically disabled or mentally retarded.’** Further the word **‘Aid’** means **‘a helpful device.’**

The applicant has further referred to entry 61 of Schedule B appended to the Haryana General Sales Tax Act, 1973, (since repealed) and has stated that their products were exempt from sales tax under the above said entry. The entry 61 of Schedule B, referred to above read as under: -

“61. Artificial limbs/ aids for use by orthopaedically handicapped persons.”

A plain reading of both the entries would reveal that whereas the Entry 61 refers to **‘orthopaedically handicapped’** persons, Entry 2 refers to **‘handicapped persons’** only. The word **‘Orthopedic’** as per the dictionary means **‘the branch of surgery, dealing with the treatment of deformities, diseases, and injuries of the bones, joints etc’.**

The applicant in this case has submitted that he has been manufacturing ‘Cervical splints, shoulders, arm and clavicle splints, wrist and forearm splints, rib splints, back splints, abdominal splints, knee splints, finger splints, emergency splints, ankle splints, conditioning splints, ambulatory splints, fracture braces which, as per the version of the applicant, are aids that assist in treatment of patients whose functional abilities of various parts of body have been either handicapped or damaged temporarily or permanently due to injury, illness or disease including amputations. The applicant has also referred to the Central Excise Act Entry 90.21 and has submitted that his products are exempt from Central Excise in view of the said entry. The entry 90.21 as reproduced by the applicant reads as under: -

“90.21- Orthopaedic appliances, including crutches, surgical belts and trusses; splints and other fracture appliances; artificial parts of the body; hearing aids and other appliances which are worn or carried or implanted in the body, to compensate for a defect or disability.”

In view of the above, it is submitted that although the previous entry related to the aids for orthopedic patients, yet the present entry relates to only handicapped persons. As such, except the items which are provided for handicapped persons, none of the products, which are related with the orthopaedic treatments, being manufactured by the applicant can be treated as covered under Entry 2 of Schedule B appended to the VAT Act.

The matter has been examined in the light of the submissions made by the applicant and it is opined that Entry 2 in Schedule B appended to the HVAT Act appears to be wider in its impact than its predecessor cited in entry 62 of the HGST Act, 1973 (Since repealed). . Further, it is opined that the present entry is wider than previous entry as it includes equipments also. It is, therefore, held that the above mentioned items being manufactured by the Representationist falls within the scope of entry 2 in schedule 'B' of HVAT Act, 2003.

Dated 18.4.2007

(L.S.M.SALINS)
Financial Commissioner and Principal
Secretary to Government, Haryana,
Excise and Taxation Department.