

**ORDER OF CLARIFICATION MADE BY SHRI ROSHAN LAL, IAS,
ADDITIONAL CHIEF SECRETARY TO GOVERNMENT OF HARYANA,
EXCISE & TAXATION DEPARTMENT,
Under Section 56(3) of the Haryana Value Added Tax Act, 2003
To M/s. Phoenix Contact (India) Private Limited, Palwal**

M/s. Phoenix Contact (India) Private Limited, Palwal (here-in-after called as the applicant) has sought a clarification under section 56(3) of the Haryana Value Added Tax Act, 2003 (here-in-after called the Act) as under:

Issue-I. What is the rate of tax applicable on the following items/commodities:-

- 1) Connectors
- 2) Relay
- 3) Power Supply
- 4) DIN rails
- 5) Cable Glands

Issue-II. *Whether the scope of various such entries in the Schedules appended to the Haryana VAT Act, where the HSN code has been referred to, is confined to the nomenclature used in that relevant entry or is extended to all commodities specified against the concerned HSN code in the Customs/Excise Tariff Act.*

2. The issues have been examined in the light of the statement of facts and submissions made by the applicant and also the provisions contained in the Act. After detailed examination the tax rate on the commodities mentioned in issue I is determined as under:

(1). **Connectors:** The applicant has stated that a connector is an electro-mechanical device for joining electrical circuits and these items are also used in telecom industry and falls under the Excise Tariff Code 8536: 9090. As per his understanding of law the connectors are also used for joining of cables so these might be covered in entry 101(17) of schedule C which reads as **Cable Jointing Kit**. So the moot question is whether connectors fall under the entry of Cable Jointing Kit or not. What is Cable Jointing Kit? A combination of many items put together as a set in one box or carton is known as Cable Jointing

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Kit. The identity of the items placed in the Kit is not changed. They are known in the market as such. They are marketable as such. The Hon'ble High Court of Andhra Pradesh vide its Judgment dated 2.2.1998 in a case of *XL Telecom Ltd. Hyderabad Vs. Superintendent of Central Excise (105) ELT263 AP* has held that by placing all articles in one kit, the kit has a distinct name known as 'cable jointing kit', but there is no change in character and use of the articles placed in the kit. Applying the ratio of the judgment of the Hon'ble High Court, even if for the sake of discussion, it is assumed that the connector is one of the items placed in the Cable Jointing Kit even then the rate of tax applicable would be as is applicable on the connector. Even otherwise also the connectors are not used to join the Cables but used for connecting or joining the electrical circuits. Relevant entry 44 of Schedule C appended to the Act is reproduced here as under for ready reference and perusal:

44	<i>Telephones, cell phones, tele-printer, wireless equipment and parts thereof, Digital Video Disc and Compact Disc, Information Technology products namely.-</i>
HSN Code	Description of Items
85.36	<i>Switches, Connectors and Relays for upto 5 Amps at voltage not exceeding 250 Volts, Electronic fuses</i>

The perusal of above entry reveals that **Information Technology Products** have been provided in schedule C but an exhaustive and restrictive list of items are also given after the word **namely** which means that only those items which have been specified under the heading of **Description of Items** shall be treated as information technology products. Connectors for up to 5 Amps at voltage not exceeding 250 Volts are also mentioned in the list of items which means that such connectors whose electric current strength is up to 5 amperes and used at voltage not exceeded 250 volts shall fall within the ambit of information technology products and shall be covered by entry 44 of Schedule C of the Act.

So if the product (connector) of the applicant is of up to 5 amperes and used at voltage not exceeding 250 volts then the same will be covered by entry 44 of schedule C referred to above otherwise it would be taxable at general rate being unscheduled item.

(2) Relays: As per the understanding and interpretation of the applicant, relays are responsible for performing variety of tasks and used for controlling the excessive voltage. The applicant has contended that relays are power factor correction equipments which ensure that the signals are exchanged correctly between the process input-output devices and the higher level central control management systems with the assurance of operational reliability, zero potential and unambiguous electrical relationship. It has also been explained by him that relays are devices for automatic control and is a safety device which prevents the equipments from the damages by detecting electrical abnormalities and that the relays are covered by entry 44 and 101 (12) of Schedule C of the Act depending upon its strength and according to him relays of any type are taxable under schedule C. For ready reference, the relevant entries are reproduced here as under:

44	Telephones, cell phones, tele-printer, wireless equipment and parts thereof, Digital Video Disc and Compact Disc, Information Technology products namely.-
HSN Code	Description of Items
85.36	Switches, Connectors and Relays for upto 5 Amps at voltage not exceeding 250 Volts, Electronic fuses

101(12)	Power factor correction relays.
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Perusal of Entry 44 of the Schedule C read with the legal position explained at (1) clearly stipulates that relays which are up to 5 Amps and used at voltage not exceeding 250 volts shall be treated as

