

From Excise & Taxation Commissioner,
Haryana, Panchkula.

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

Memo No 619/ST-I,
Panchkula, dated the 14-3-13

Subject: Circulation of Clarification-M/s Excel Crop Care Ltd., Hisar

MEMORANDUM

A copy of clarification order issued by the Principal Secretary to Government of Haryana, Excise & Taxation Department under section 56(3) of Haryana Value Added Tax Act, 2003 sought by M/s Excel Crop Care Ltd., Hisar 802, Surya Kiran Building 19, Kasturba Gandhi Marg, New Delhi-110001 holding TIN No. 06591533443 is sent herewith for information and necessary action by all the concerned.

Ram Rg 2-3-13
Superintendent (Sales Tax)
for Excise & Taxation Commissioner, Haryana.

Endst. No. 620 /ST-I, Panchkula, dated the 14-3-13

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

- Regd. 1. M/s Excel Crop Care Ltd., Hisar 802, Surya Kiran Building 19, Kaasturba Gandhi Marg, New Delhi-110001 holding TIN No. 06591533443
2. Jt. Excise & Taxation Commissioner (Divison/Range) Ambala, F/Bad, Gurgaon and Hisar.
3. All Joint Excise & Taxation Commssioners (Appeals) in the State of Haryana.
4. Senior Deputy Accountant General (Audit), Haryana, Chandigarh.
5. Dy. Excise & Taxation Commissioner (Vigilance), Haryana Vigilance Bureau, Sector-6, Panchkula.

Ram Rg 2-3-13
Superintendent (Sales Tax)
for Excise & Taxation Commissioner, Haryana.

Endst. No. 621 /ST-I, Panchkula, dated the 14-3-13

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

1. All Addl. Excise and Taxation Commissioners
2. Jt. Excise and Taxation Commissioners
3. Jt. Director (L)-I and II
4. Dy. Excise and Taxation Commissioner
5. DA-I and II
6. DDA-I & II
7. Superintendent (C) for sending E-mail to all the DETCs(ST) and for uploading on website.
8. ST-II only (For adding in The Annual Sales Tax Circular, 2013).

Ram Rg 2-3-13
Superintendent (Sales Tax)
for Excise & Taxation Commissioner, Haryana.

S(A)

14-3-13

S.A

**ORDER OF CLARIFICATION MADE BY SHRI RAJAN GUPTA, I.A.S.,
PRINCIPAL SECRETARY TO GOVERNMENT OF HARYANA,
EXCISE & TAXATION DEPARTMENT,
UNDER SECTION 56 (3) OF THE HARYANA VALUE ADDED TAX ACT, 2003.
To M/s. Excel Crop Care Limited, Hisar**

M/s. Excel Crop Care Limited, Hisar (the applicant) having TIN No. (06591533443) has sought clarification under Section 56 (3) of the Haryana Value Added Tax Act, 2003 (Act) on the following issue:

"Whether 'Herbozyme Liquid' and 'Herbozyme Granule' are organic manure and covered under Entry 38 of Schedule B of the Haryana VAT Act, 2003 or not?"

2. According to the statement of facts and as per his own interpretation of law submitted by the applicant, the applicant imports "**liquid seaweed concentrate**" and after diluting the same with water sells the product under the brand name '**Herbozyme**'. The applicant is manufacturing two types of products i.e. '**Herbozyme liquid**' and '**Herbozyme Granules**'. It is contended by the applicant that it is an organic manure in commercial parlance and hence tax exempted as these products fall in specific entry contained at Sr. No. 38 of Schedule B appended to the Act.

3. The applicant has further contended that the process of diluting and procuring granules do not amount to manufacture and has taken support of three decisions of Central Excise Authorities. It is further contended that these two products are covered under tariff item No. 3101 00 99 under Chapter 31 of the Central Excise Tariff Act which pertains to animal and vegetable fertilizers and hence the products are covered under organic manure under the Act. Support has also been taken of an order passed by the Deputy Commissioner of Sales Tax (Legal), Gujarat holding these products as 'organic manure' included under Entry 60 of Schedule 1 of the Gujarat Sales Tax Act, 1969 which reads as "**All types of fertilizers excluding chemical fertilizers**".

4. The issue has been examined. There are three entries contained in the Act which are relevant to the issue raised by the applicant. For ready reference, these are reproduced as under:

In Schedule B

"12 Chemical Fertilizer and gypsum
38 Organic Manure"

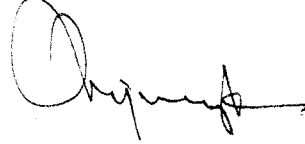
In Schedule C

"63 Plant growth promoters, plant nutrients including bio-fertilizer"

5. Thus under the Haryana VAT Act bio-fertilizer is taxable and not exempted as it is specially included in entry 63 of Schedule C of the Act. The products of the applicant as per his own description available on his website are nothing but "Growth Enhancers". The website further says "*Application of our growth enhancers can enliven even the frailest of plants. These contain stimulators that provide the plants, the strength to progress with the uptake of the required nutrients. The growth enhancers offered by Excel Crop Care are created with impeccable precision, which give seedlings the right nourishment*". Further, the website says that these products are useful as "*Biological Plant Growth Enhancer Through Multi Stage Microbial Fermentation*". As per dictionary meaning 'Promoter' means "*Someone who tries to encourage something to happen or develop,*" and the word 'Enhancer' is defined as "*Something which is used to improve the quality of something*". Plant growth promoter is nothing but an accelerator who acts as a catalyst in a process. Thus the meaning of promoter is close to enhancer and both can be inter-changed and understood as such in the issue placed before us.

6. There exists "**Note:4**" attached to Schedule C which reads as "*Goods of the description contained in this Schedule shall be deemed to have been excluded from Schedule B*".

7. Therefore, in the light of the above, the products in issue i.e. 'Herbozyme liquid' and 'Herbozyme Granules' are covered under Entry contained at Serial No. 63 of Schedule C appended to the Haryana Act and liable to tax accordingly and are not tax exempted as these do not fall in Entry 38 of Schedule B of the Act.



(RAJAN GUPTA)

Dated: 12.03.2013
Chandigarh

Principal Secretary to Government of Haryana
Excise & Taxation Department