

**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 : M/s Jhalani Trade Centre , Gurgaon

The querist M/s Jhalani Trade Centre , Gurgaon is a dealer registered under Haryana VAT Act holding TIN No. 06291931793 and has applied for clarification under section 56(3) of the Haryana VAT Act. The applicant is a dealer dealing in purchase and sale of Hand Tools, Hardware items etc. and has sought clarification as to the rate of tax applicable on Steel Ratchet Hand Tools, & Narrow Woven Fabric Belts/Strips. The plea of the applicant is that Ratchet Hand Tool viz Ratchet Fasteners are covered under Schedule 'C' of the Haryana VAT Act viz under entry 100-C pertaining to **Nut, bolts, screws and fasteners**. The applicant has submitted literature and illustrations on the Ratchet Fasteners sold by him. Further plea of the applicant is that term **fasteners** is a very broad term and has to be understood in the sense the trade understands it. Further, it has been explained that **fastener is a device that fastens something** and the various categories of ratchet fasteners viz for wheel lashing, chassis lashing etc. are used for fastening heavy items like logs, pipes and vehicles etc. during their transportation from one place to another. Further plea of the applicant is that since entry 100(C) of schedule C viz. **Nut, Bolts , Screws and Fasteners** etc. does not restrict or limit fasteners covered under this entry, word fasteners **should be interpreted in the term understood in common parlance or by the trade dealing with it** Regarding Narrow Woven Fabrics, plea of the applicant is that they are dealing in narrow woven fabrics of 1" to 2" width and from 1 meter to 2.5 meters in length and since the same are purchased and sold individually, the same are covered under schedule B viz. textile, and hence, are tax free items. It has been further explained that with growth of technology the market is flooded with various types of fasteners and where end use of such fasteners is as a device that fasten something, the same has to be understood accordingly. The most commonly used fasteners include safety pins, clips, buttons, buckles, zips, rubber-bands and ties etc. New and innovative fasteners are flooding the market like never before and snap fasteners or smart fasteners are one of the examples of **new generation fasteners**. The applicant has relied on the observations given by the Apex Court wherein it has been observed that if any term or expression has been defined in the enactment then it must be understood in the sense in which it is defined. **However, in the absence of any definition being given in the enactment the meaning of the term in common parlance or commercial parlance has to be adopted.**

Matter has been examined. Hon'ble Supreme Court, in case of Chiranji Lal Anand V/s State of Assam (1985) 60 STC 89 (SC) and in plethora of other judgments have time and again reiterated that in determining the meaning or connotation of words and expressions describing an article or commodity the turnover of which is taxed in a sales tax enactment, **if there is one principle fairly well-settled, it is that the words or expressions must be construed in the sense in which they are understood in the trade, by the dealer and the consumer.** It is they who are concerned with it, and it

is the sense in which they understand it that constitutes the definitive index of the legislative intention when the statute was enacted. **How the product is identified by the class or section of people dealing with or using the product is also a test when the statute itself does not contain any definition and commercial parlance would assume importance when the goods are marketable.** Thus, in light of position of law explained above Ratchet Fasteners, for wheel lashing and for chassis lashing, sold by the assessee are covered under the term **fasteners** of entry 100(C) of schedule C viz. **Nut, Bolt, Screw and Fasteners** and attract VAT @4%. Regarding Narrow Woven Fabrics, purchased and sold by the applicant, the same are covered under entry 11 of schedule C viz. **Beltings** and hence attract VAT @4% and are not tax free items covered under **schedule B of the Haryana VAT Act as argued by the applicant.** Moreover, narrow woven fabrics of 1” to 2” width and 1 meter to 2.5 meters in length have no independent existence and the same have their use and application with ratchet fasteners only and hence attract VAT @ applicable on ratchet fasteners viz. @4%. Matter is clarified accordingly.

(RAMENDRA JAKHU)

Chandigarh

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

Dated:

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