

**ORDER OF CLARIFICATION UNDER SECTION 56(3) OF HVAT ACT, 2003**  
**ON THE APPLICATION OF M/S HALDI RAM MANUFACTURING CO.(P)**  
**LTD., GURGAON.**

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This is an order of clarification under section 56(3) of HVAT Act, 2003 (VAT Act) on the application of M/S Haldi Ram Manufacturing Co. (P) Ltd., Gurgaon seeking clarification on the issue of (a) restriction on export out of State (b) maintenance of production level and (c) restriction of branch transfer on Raw Material. The applicant company is an industrial unit availing the benefit of sales tax concession on certain goods i.e. Namkeen, Snacks and Sweets other than confectionary under rule 28 C of the Haryana General Sales Tax Rules ( Section 61 of Haryana Value added Tax Act). The applicant registered under Haryana Value added Tax Act is a manufacturer of High quality Namkeen, Snacks, Sweets, Confectionary, cooked foods, processed food etc.

The facts as narrated by the applicant and the points on which clarification has been sought are as follows:-

“That the company was granted tax incentive under 28© of Haryana General Sales Tax Act (Section 61 of Haryana Vat Act). The incentive was not granted to the unit on the whole manufactured goods but was restrained to avail incentives on processed Food/ confectionary. The incentive was open only on Namkeen, snacks and Sweets in clear terms.

That the applicant company, sought clarification through advance ruling under the provisions of section 56 of Haryana Vat Act , 2003 on certain issues which were clarified by the department vide clarification dated 12.7.04.

**That the Deptt previously clarified the like issue through clarification Memo.No. 1436 ST 3 dated 13.06.01.**

**Subject: An industrial unit, which has availed the benefit under section 13 B & 25 A of Haryana General Sales Tax Act read with rule 28 A, is bound by the provisions of sub rule 11 (ii) of rule 28-A.**

**It was clarified as under:**

- i) such unit is free to start production of new product or products in addition to the old product on which tax benefits were availed of **and can dispose of new product or products in any manner including transfer or consignment.**

- ii) The production of new product or products will not be taken into account while assessing the compliance of average production of old product under sub clause (i) of Cl (a) of sub rule (11) of rule 28-A.

**It was further clarified that restrictions under sub rule (11) of rule 28-A will operate on old product on which the tax concessions were availed of.**

That in view of both the above clarifications and in the view that company has been granted tax incentive on certain goods whereas , it was restrained to avail benefits on the other goods manufactured by the applicant company; it is understood by the applicant company that:

That the applicant company after having availed of the benefits of tax concession, shall continue their production in the preceding five years **of the goods under concession.**

That the company, during the period of availing the benefit or after availing the benefit shall not make, transfer or consignment of goods manufactured by it (**only the goods under tax incentive**) for next five years.

That as while considering the production level the production of goods which were not under concession, shall not be taken into account while assessing the compliance of average production of old products under concession.

That likewise restriction of Branch Transfer is not applicable on the **goods which are not covered under tax concession.**

That likewise restriction of Branch Transfer is also not applicable on **Raw Material.**

The issue has been examined in the light of rule 28-C of Haryana General Sales Tax Rules, 1975 and section 61 of Value Added Tax Act read with rule 69 of Value Added Tax Rules. The clarifications issued earlier by the department and referred to by the applicant have also been gone through carefully. The clarification issued by FCET vide order dated 12.7.04 provides answer to all the

applicant's queries except one regarding the restriction of branch transfer on 'Raw Material'. On this issue there is no ambiguity or confusion as the goods bought and sold/transferred as such remain out of the ambit of tax concession and the restriction of branch transfers shall not be applicable thereon.

This clarification shall be uploaded on the official website.

Dated 09.11.2004

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