

**ORDER OF CLARIFICATION MADE BY SHRI L.S.M. SALINS,
FINANCIAL COMMISSIONER & PRINCIPAL SECRETARY,
GOVERNMENT OF HARYANA, EXCISE AND TAXATION
DEPARTMENT UNDER SECTION 56(3) OF THE
HARYANA VALUE ADDED TAX ACT, 2003**

Querist: Leather Cloth Plastics Manufacturers Association

Leather Cloth Plastics Manufacturers Association has sought clarification u/s 56(3) of Haryana Value Added Tax Act, 2003, that whether textile fabric (coated or covered or laminated with plastics) commonly known as 'leather cloth' is exempt from VAT or not.

The Association in its letter dated 16.5.2006 has admitted that additional Excise duty now stands exempted on their products or reduced to 'nil'.

In order to clarify this issue, a reference to entry No. 21, Schedule 'B' appended to HVAT Act, 2003 is necessary. The said entry reads as under:-

SCHEDULE 'B'

Conditions

21 Leather cloth and inferior or imitation leather cloth ordinarily used in book binding; rubber used tissue or synthetic water tissue or synthetic water-proof fabrics whether singly textured or double textured and book-binding cotton fabrics

On which Additional Excise duty in lieu of sales tax is levied.

The entry reproduced above shows that the product leather cloth enjoys conditional exemption. In case there is no Additional Excise duty on the product, there will be no exemption from payment of Value Added Tax.

In the instant case, since no Additional Excise Duty is being levied by reason of exemption, the applicants cannot now avail themselves of the benefit of Entry 21 quoted above.

In this regard now the new entry applicable with effect from 1.7.2005 is at serial number 54 in Schedule 'B'. The new entry is materially same as the old. It reads as under:-

“54. Leather cloth and inferior or imitation leather cloths ordinarily used in book binding: rubber used tissue or synthetic water tissue or synthetic water-proof fabrics whether single textured or double textured and book-binding cotton fabrics provided Additional Excise Duty in lieu of sales tax is levied on them”.

A plain reading of the entry shows that it will include leather cloth and other types of cloth made with rubberized tissue or synthetic water (proof) tissue, or synthetic water proof fabrics provided Additional Excise Duty in lieu of sales tax is levied on them.

The contents of the application have been examined and it has been observed that it is not correct to say that Additional Excise Duty (AED) is not levied on an item forming part of First Schedule to the Act of 1957, on which rate of duty is nil. All goods that formed part of First Schedule to the Act even though rate of duty on them be nil should be taken to be levied to AED under the Act and hence free from the levy of Sales Tax. The expression Additional Excise Duty in lieu of Sales tax is levied in entries 52, 53 & 54 in Schedule 'B' appended to Haryana Value Added Tax, 2003 will include cases where the goods in question are part of First Schedule to the Additional Duties of Excise (Goods of Special Importance) Act, 1957 rate of duty specified thereon may be nil and as such the goods are treated as generally exempt from tax under Haryana Value Added Tax Act, 2003.

(L.S.M.SALINS)

Chandigarh
Dated

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