

Order of clarification under section 56(3) of HVAT Act, 2003 on the application of Manufacturers Association, Faridabad.

This is an order of clarification under section 56(3) of the Haryana Value Added Tax Act, 2003 (VAT Act) on the application of Manufacturers Association, Faridabad seeking clarification whether a spring leaf is covered under sub-clause (iv) of Section 14 of the Central Sales Tax Act, 1956 and taxable as declared goods under VAT Act.

2. The circumstances envisaged by the applicant and the points on which the clarification has been sought are as follow:-

(i) Leaf spring assemblies: There is no dispute about the clarification and rate of taxation with regard to leaf spring assemblies. A leaf spring assembly is admitted to be a 'motor vehicle part' as are used by vehicle manufacturers, the original equipments manufacturer (OEM).

(ii) Loose Spring Leaves: The present dispute is on account of classification of loose spring leaves. In State of Haryana 'Loose Spring Leaves' are taxed as Motor Vehicle parts, whereas in other States like U.P., M.P. and Maharashtra, loose spring leaves are classified under as 'iron and steel' placed in the category of declared goods under section 14 of the CST Act.

It has also been stated that with regard to classification of loose spring leaves, the Apex Court, High Courts, Tribunals and various State Governments have held that loose spring leaves are nothing, but iron and steel and as such these are declared goods and leviable to tax as a declared goods at 4%.

3. This issue sought to be clarified involves interpretation of entry 42 in notification S.O.50/H.A. 6/2003/S.7/2003 dated 1st April, 2003. (as substituted with effect from 1st April 2003 vide S.O.92 dated 8.7.2003). This entry includes 'components, spare parts and accessories of motor vehicles mentioned therein.

4. There cannot possibly be any serious dispute that in common parlance components are items or parts which are used in the manufacture of the final product and without which final product cannot be conceived of. Spare parts are those component parts which, in the course of use, wear and tear out frequently and are, therefore, required to be kept in readiness for use as and when necessary. As component or spare parts have not been

defined under VAT Act, a reference may usefully be made in this context to the plain dictionary meaning of these expressions as per the Shorter Oxford English Dictionary:

“‘Component’: Composing, making up, constituent, a constituent part or element.

'Spare': Not in actual or regular use at the time spoken of, but carried, held or kept in reserve for future use or to supply on emergency; additional, extra, that can be spared, dispensed with or given away, as being in excess of actual requirements, superfluous."

5. The expression "component" came up for consideration before Bombay High Court in Commissioner of Sales Tax v. Jayanand Khira & Co. Private Ltd. [1975] 36 STC 242.

It was held:

"that in order to determine whether a particular article is a component part of another article, the correct test would be to look both at the article which is said to be the component part and the completed article and then come to the conclusion whether the first article is a component part of the whole or not. If one were to look at a complete and finished product, one might find so many parts which, by being fixed or otherwise made part of the said product, would lead one into a fallacious impression that they are component parts. ***One must first look at the article itself and consider what its uses are and whether its only use or its primary or ordinary use is as the component part of another article.***"

6. In the case reported as [1990] 078 STC 0079 Commissioner of Sales Tax, Maharashtra State, Bombay Vs. Acme Mfg. Co. Ltd, one of the questions before Bombay High Court was whether valves can be said to be components of trucks. Valves are components of diesel engines and diesel engines are components of the trucks. In other words the question was whether a component of a component of a motor vehicle shall also be the component of a motor vehicle. The court held that valves would be components of a motor vehicle.

7. It is relevant in the context that valves are used in diesel engines which are supplied to manufacturer of motor vehicle (OEM). A user of motor vehicle, after wear and tear of engines gets it overhauled and in that process valves in an engine are replaced in a workshop. In the instant case “spring leaves assembly” is admitted by applicant as covered under entry 42 as a component of motor vehicles. A ‘spring leaves assembly’ is made of a number of spring leaves bunched together. Usually, it is sold to manufacturers for fitting with the chassis of motor vehicles. While using the motor vehicles some of the leaves get broken or after longer use and also due to excess load gets deflated. In such eventualities, some of the leaves are replaced in the assembly. The leaves that are replaced are available in market as loose spring leaves. As such, loose springs leave being the component of ‘spring leaves assembly’ is also a component of motor vehicle and is taxable under entry 42. (Applicant claim, that spring leaves assembly is used in motor vehicle and is a component of motor vehicle).

8. The main decision enclosed with the application under consideration [Unik Spring (India) Faridabad decided by the CUSTOM, EXCISE AND GOLD (CONTROL) APPELLATE TRIBUNAL] is about the levy of excise duty on job work of converting iron and steel flats into loose spring leaves. This case specifically deals with the issue of exemption of job worker from payment of excise duty under a notification No 119/75 of central excise department. The board has decided in favor of the taxpayer with the observation; ***“The reason for this is that we find that there is not a complete conversion of the goods originally received to the extent where such goods might completely lose their identity”***. While considering this decision, it is to be kept in view that the incidence of tax there was an act of manufacturing whereas the act of sale is the incidence here. The basis of taxation under VAT Act is ‘different commercial commodity’ whereas the basis for excise duty is ‘manufacture of different commodity’. For tax purpose under VAT Act, cotton and surgical cotton are different commercial commodity even though there is no loss whatsoever to the identity of cotton. A job work of converting cotton into surgical cotton may not attract excise duty on the basis laid down by the Board in case supra, nonetheless sales tax would be leviable on cotton as well as surgical cotton. Coming to the facts of case under consideration, we would tax

iron and steel flats as well as loose spring leaves; both being different commercial commodity. A spring leave when bunched in 'spring leaves assembly' and a 'loose spring leave' used to replace a broken/deflated spring leave in that assembly how could not be perceived differently? Applicant has very candidly admitted in last sentence of Para 4 of the application that loose leaves springs are part of spring leave assembly.

9. The applicant has pleaded that a loose leaf spring should be considered as declared goods being covered by entry of Iron and Steel. Their contention in this regard is that raw material is spring steel bars and no different commercial commodity emerges as a result of manufacturing process that involves cutting, drilling, blending, heating, hardening and tempering. Reliance has been placed on 74STC176 (SC), 23 STC 288(Guj) and 45 STC 99(J&K). The latter two decisions were approved by Supreme Court in 74 STC 176. It has been further contended that Maharashtra, Madhya Pradesh and U.P treat loose spring leaf as covered under Iron & Steel and tax sales as the sale of declared goods. Copies of circulars issued by these States have also been enclosed (these copies are illegible and could not be commented).

10. In 74 STC 176, the Apex Court held that galvanized steel tube is not different commercial commodity from steel tube. The process of galvanizing of steel tube does not bring a different commercial commodity in existence than the steel tube. The Apex Court observed that the purpose of galvanizing a pipe is merely to make it whether-proof. It remains a steel tube. In 45 STC 0099 J&K High Court held that galvanized iron sheets are forms of iron and not iron goods. So far as galvanization is concerned it is performed to prevent iron from rusting and to enhance its life. Obviously no different commercial commodity emerges by process of galvanization. In 23 STC288, Gujrat High Court held that corrugated sheet remains the item of iron and steel. There is contrary decision from Allahabad High Court wherein perforated sheet were held to be different commercial commodity; [48 STC 378(All)]. Rajasthan High Court in a case reported as 65 STC 215 has held that corrugated sheet is different commercial commodity than the steel sheet. It is also pertinent that the decision of Allahabad High Court was not referred to before Apex Court in the case supra whereas that of Gujrat High Court was referred and

approved. Perforation/ corrugation of a plain iron sheet are a case where different commercial commodity should emerge.

11. The most relevant is the view taken by Apex Court in State of Tamilnadu vs. Pyare Lal Malhotra, 37 STC 319 (SC). It was observed that the object of single point taxation is a commercial commodity and not the substance out of which it is made. Such commercial commodity here becomes a separate object of taxation in a series of sales of that commercial commodity so long as it retains its identity as that commodity. It has further been observed (Para 10):

"As we all know, sales tax law is intended to tax sales of different commercial commodities and not to tax the production or manufacture of particular substances out of which these commodities may have been made. As soon as separate commercial commodities emerge or come into existence, they become separately taxable goods or entities for purposes of sales tax. Where commercial goods, without change of their identity as such goods, are merely subjected to some processing or finishing or are merely joined together, they may remain commercially the goods which cannot be taxed again, in a series of sales, so long as they retain their identity as goods of a particular type."

12. To my mind, leaf springs are different commercial commodity than the spring steel bars/flat that is the basic raw material for leaf spring. No rationale exists in admitting loose leaf spring as declared goods being covered under sub-clause (iv) of clause (iv) of section 14 of CST Act and taxing bunched/clipped leaves springs as components of motor vehicle.

13. I, therefore, conclude that 'loose leaf springs' are different commercial commodity than the Spring Steel bars or flat. Hence, loose springs can not be covered vide sub-clause

(iv) of clause (iv) of Section 14 of the Central Sales Tax Act and consequently would not taxable as declared goods.

This clarification shall be uploaded on the official website.

Dated: 10/12/2004

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