

**IN THE OFFICE OF COMMISSIONER  
DEPARTMENT OF TRADE AND TAXES  
GOVERNMENT OF N.C.T. OF DELHI  
VYAPAR BHAWAN, NEW DELHI**

No.366/CDVAT/2014/298

Dated: 30/09/2014

M/s. STP Limited,  
707, 7<sup>th</sup> Floor, Chiranjiv Tower,  
43, Nehru Place,  
New Delhi - 110019.

**ORDER**

Present for the Applicant : Sh. Akshay Chandra, Accounts  
Executive of the Company  
Present for the Department : Sh. M.K.Aggarwal, Departmental  
Representative

The above named applicant filed an application on 30/05/2014 under section 84 of Delhi Value Added Tax Act, 2004 (hereinafter referred to as the "said Act") and the question put up for determination under the aforesaid provision of law is as under: -

***"Whether SBR Latex falls within the ambit of entry 84 of Schedule III of DVAT Act, 2004 and chargeable to VAT @ 5% ?"***

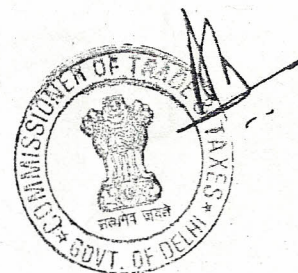
2. The application has been filed in the prescribed format DVAT-42 and the requisite fee of Rs.500/- paid vide DD No. 283078 dated 29.05.2014 drawn on ICICI Bank, Nehru Place, New Delhi.
3. M/s. STP Limited is a registered dealer of Ward No.1 (TIN 07520021332) under DVAT Act, 2004 and deals in manufacturing of bituminous product, Waterproofing Felt, Coal Tar based products and construction chemicals.

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4. Sh. Akshay Chandra, Accounts Executive of the Company, appeared and reiterated the facts and grounds of the case and requested to determine the rate of tax payable on SBR Latex.
5. The brief facts of the case, as explained by the applicant are as under:-
- i) SBR Latex (Styrene butadiene latex) is a carboxylated styrene butadiene copolymer latex admixture that is designed as an integral adhesive for slurry bond coats, mortars and concrete to improve strength and weather resistance. It is also popularly used as a waterproofing compound packed in 5 ltr, 20 ltr and 200 ltr containers. The dealer further submitted the composition of the product.
  - ii) The SBR Latex supplied as a ready to use bonding agent in liquid consistency. It is used for repair of spalled concrete - floors, columns, beams, slabs & waterproofing of toilets & bathroom, small terraces etc. as it bonds strongly to old & new concrete and to plasters. It reduces shrinkage, prevents cracking, dusk pick up & improves abrasion resistance.
  - iii) Depending on the purpose of application cement, sand and water is mixed in different proportions with SBR Latex.
  - iv) Applicant further stated that some companies are charging VAT @ 5% considering it as covered under Entry No.84 'Industrial Inputs' of Schedule III to Delhi VAT Act, 2004 and some are charging VAT @ 12.5% considering it as covered under section 4(1)(e) of the DVAT Act, 2004 as any other goods.

With the above averments, the applicant stated that SBR Latex falls under Entry No.84 (170.40.02) of Third Schedule appended to DVAT Act, 2004 and attracts VAT @ 5%.



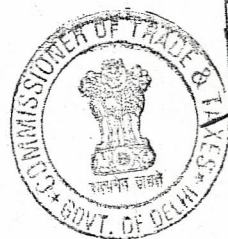
- ó. The DR appearing on behalf of the department stated that under Entry no. 84 of the Third Schedule of the DVAT Act, 2004, the item under which the dealer contested that the product is covered reads as under :

Sl. No.	COMMODITY		
84	Industrial inputs ....contd....		
	169.	40.01	Natural Rubber, balata, gutta percha, Guayule, chicle and similar natural gums, in primary forms or in plates, sheets or strips
	170.	40.02	Synthetic rubber and factice derived from oils in primary forms or in plates, sheets or strip; mixtures of any product of heading No. 40.01 with any product of this heading, in primary forms or in plates, sheets or strip

The DR further stated that two things are of importance in this case for deciding the issue.

- i) Whether SBR Latex is used as an industrial input ?
- ii) Is it synthetic rubber derived from oils in primary forms or in plates, sheets or strip; mixtures of any product of heading No. 40.01 with any product of this heading, in primary forms or in plates, sheets or strip.

The product as informed by the dealer is used in construction industry, as a ready to use bonding agent in liquid consistency. It is used for repair of spalled concrete - floors, columns, beams, slabs & waterproofing of toilets & bathroom, small terraces etc. as it bonds strongly to old & new concrete and to plasters. However, the constituents of the product show that the product is water based and not oil based as stipulated in the entry, hence it cannot be taken as covered under entry 84(170) of the third schedule of the DVAT Act 2004.



7. I have heard both the sides and the documents available on file and I am of the opinion that the entry 84(170) of the third schedule of the DVAT Act 2004 is restricted to the extent of synthetic rubber derived from oils i.e. the entry is based on the manufacturing aspect of the product. The product under consideration is water based and not oil based as reflected from the details of the constituents submitted by the applicant, hence, it cannot be taken as covered under the scope of entry 84(170) of the third schedule of the DVAT Act 2004. Hence, chargeable under section 4(1)(e) of the Delhi Value Added Tax Act, 2004 at 12.5%.

8. Held accordingly.

(Sanjeev Khirwar)  
Commissioner, VAT

Copy for information and necessary action to:

1. Applicant
2. Addl. Commissioner (Law & Judicial)
3. Addl. Commissioner (System)
4. Programmer (EDP) for uploading this order on web.
5. Value Added Tax Officer (Policy Branch)
6. VATO (Ward 97, 101, 201).
7. President, Sales Tax Bar Association (Regd.)
8. Guard File

(Sanjeev Khirwar)  
Commissioner, VAT

