

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

No.341/CDVAT/2013/216

Dated: 29.11.2013

M/s. L.G. Electronics India Pvt. Ltd.,  
A-27, Mohan Co-operative. Indl. Area,  
Mathura Road,  
New Delhi.

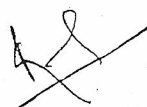
**ORDER**

Present for the Applicant : Sh. B. Lakshmi Narasimhan, Counsel  
Sh. Amar Pratap Singh, Counsel  
Present for the Department : Sh. T.C. Sharma, Departmental  
Representative

The above named applicant filed an application on 13/06/2013 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: -

***"What is the rate of tax on LED and LCD monitors under the DVAT Act and whether LED and LCD monitors are classifiable under entry 41A (3) Schedule III as 'monitor' - Central Excise Tariff Act, 1986 tariff heading 8471 and accordingly taxable @ 5%?"***

2. The application has been preferred in the prescribed format DVAT-42 and the requisite fee of Rs.1000/- paid through demand draft No. 815566 dated 13.06.2013 of Punjab & Sind Bank and No.015558 dated 13.06.2013 of HDFC Bank.
3. M/s. L. G. Electronics India Pvt. Ltd., is a registered dealer having TIN 07230192357. The Company manufactures Liquid Crystal Device (LCD) and Light Emitting Diode (LED) monitors in India and selling the same in National Capital Territory of Delhi and other parts of the country. The firm has mentioned that the product has been classified and





assessed under the heading of 84716030, of the Central Excise Tariff Act, 1985.

4. Sh. B. Lakshmi Narasimhan and Shri Amar Pratap Singh, Counsels of the applicant appeared and reiterated the grounds of the determination application. Counsel submitted that the items under determination can be covered under entry no. 41A of Schedule III appended to the DVAT Act, 2004. His submissions are as under:

- (i) As per the McGraw-Hill Dictionary of Scientific and Technical Terms, fifth edition Liquid Crystal Display means a display that consists of two sheets of glass separated by a sealed-in, normally transparent, liquid crystal material; the outer surface of each glass sheet has a transparent conductive coating such as tin oxide or indium oxide, with the viewing side coating etched into character-forming segments that have leads going to the edges of the display; a voltage applied between front and back electrode coatings disrupts the orderly arrangement of the molecules, darkening the liquid enough to form visible characters even though no light is generated. The term LCD panels, stands for Liquid Crystal Display Panels, which are used for both LCD TVs and LCD Monitors.
- (ii) In the instant case, the LCD Monitors sold by LGEIL is based on the same liquid crystal technology for more clarity and effective use.
- (iii) Similarly the 'LED' technology is used in LED monitors. As per the McGraw-Hill Dictionary of Scientific and Technical Terms, fifth edition 'LED is defined as 'light emitting diodes', a semiconductor diode that converts electric energy efficiently into spontaneous and non-coherent electromagnetic radiation at visible and near infrared wavelengths by electroluminescence at a forward-biased.



- (iv) Therefore in instant case LCD and LED technology is used in monitors. These monitors manufactured for use with automatic data processing machines like computers.
- (v) It is submitted that the LCD and LED monitors manufactured and sold in NCT of Delhi are classifiable under entry 41A of Schedule III of DVAT Act. Relevant portion of Entry 41A of the Schedule-III of the DVAT Act read as follows:

"41A. Information Technology products as per the description in column (2) below, as covered under the headings, or sub-headings mentioned in column (3), as the case may be, of the Central Excise Tariff Act, 1985 (5 of 1986).

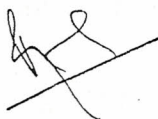
Sl. No.	Description	Central Excise Tariff Heading
(1)	(2)	(3)
3.	Automatic data processing machines and units thereof, magnetic or optical readers, machines for transcribing data onto data media in coded form and machines for processing such data. Analogue or hybrid automatic data processing machine, Electronic Diaries, Portable digital automatic data processing machine, personal computer, computer systems including personal computers, other Digital automatic data processing machines comprising in the same housing at least a central processing unit and an input and output unit whether or not combined, micro computer / processor, large / mainframe computer, computer presented in form of systems, digital processing units, storage units, input units, output units. Teletypewriter, Data entry terminal, Line Printer, Dot matrix printer, Letter quality daisy wheel printer, Graphic printer, Plotter, Laser jet printer, Key board, Monitor, storage	8471

*[Handwritten signature]*

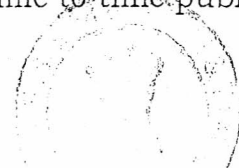


units, floppy disc drive. Winchester / hard disc drives, Removal / exchangeable disc drives, magnetic tape drives, Cartridge tape drive, other units of automatic data processing machines, Uninterrupted power supply units (UPS).
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- (vi) It is submitted that the LCD and LED monitors sold by Dealer are classifiable under of clause (3) of Entry 41A of the Schedule - III of DVAT Act as 'monitor'.
- (vii) Entry 41A (3) of Third Schedule of DVAT Act is aligned with Central Excise Tariff Act, 1985 ('CETA') and refers to entry 84.71 Here it is relevant to note that Entry 84.71 under CETA has been amended with effect from 1<sup>st</sup> January, 2007. However, consequential amendments have not been made in the Third Schedule of DVAT Act.
- (viii) For the purpose of interpretation of entry 41A(3); certain notes have been provided under Entry 41A of the Third Schedule. The Notes of interpretation as given under Entry 41A clarify as to how the reference to entries under Central Excise Tariff Act, 1985 ('CETA') should be interpreted.
- (ix) Therefore entry 41A (3) of Third Schedule should be interpreted in the light of the Rules of Interpretation given under CETA and the note of interpretation given under Entry 41A.
- (x) Note 1 to entry 41A provides that the Rules for the interpretation of the provisions of the Central Excise Tariff Act, 1985 read with the Explanatory Notes as updated from time to time published by the Customs Co-operation Council, Brussels apply for the interpretation of this entry and the entry number 84 of this Schedule.




- (xi) Note 2 to Entry 41A of Third Schedule, provides as follows:  
“Note:- (2) Where any commodities are described against any heading or, as the case may be, sub-heading, and the description in this entry and in entry number 84 is different in any manner from the corresponding description in the Central Excise Tariff Act, 1985, then, only those commodities described in this entry and in the entry number 84 will be covered by the scope of this notification and other commodities though covered by the corresponding description in the Central Excise Tariff will not be covered by the scope of this notification.”
- (xii) Note 3 to Entry 41A of Third Schedule provides as follows:  
Note:- (3) Subject to Note (2), for the purpose of any entry contained in this notification, wherein the description against any heading or, as the case may be, sub heading, matches fully with the corresponding description in the Central Excise Tariff, then all the commodities covered for the purposes of the said Tariff under that heading or sub-heading will be covered by the scope of this notification.
- (xiii) Note 4 of Entry 41A of Third Schedule provides as follows:  
Note:- (4) where the description against any heading or sub-heading is shown as "other", then, the interpretation as provided in Note 2 shall apply.
- (xiv) Entry 41A(3) of the Third Schedule of DVAT Act does not correspond exactly to the entry given under CETA. However, monitors are specifically mentioned in the CETA and also in Entry 41A (3) and hence satisfy the relevant entry portion of tariff heading 8471.
- (xv) Note 1 of entry 41A shall apply in the instant case and the scope of the goods mentioned in Entry 41A should be determined on the basis of Rules for interpretation of the provisions of CETA read with Explanatory notes as updated from time to time published by



the Customs Co-operation Counsel, Brussels (now the World Customs Organization (WCO).

5. The DR appearing on behalf of the department stated that the above contention of the applicant as mentioned at '(xv)' above is not correct and Note No.1 of Entry No.41A shall not apply in the instant case. The DR further stated that the item under consideration has already been determined under section 84 of the Act, in the case of NEC India Pvt. Ltd., New Delhi, vide order No.204/CDVAT/2008 dated 08/07/2008. Hence, as per sub-section 8 of section 84 of the DVAT Act, 2004 the present application is not maintainable and should be rejected.
6. I have heard both the sides and of the considered view that the application is not maintainable since the item under consideration has already been determined under section 84(8) of the DVAT Act, 2004 and I, therefore reject the same.

**(Prashant Goyal)**  
**Commissioner, VAT**

Copy for information and necessary action to:

1. Applicant
2. Addl. Commissioner (Law & Judicial)
3. Addl. Commissioner (System)
4. Value Added Tax Officer (Policy Branch)
5. President, Sales Tax Bar Association (Regd.)
6. Guard File



**(Prashant Goyal)**  
**Commissioner, VAT**