

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

No.361/CDVAT/2014/ 251

Dated: 24.03.2014

Shri Amit Chawla,  
B-417, New Friends Colony,  
New Delhi-110065.

ORDER

Present for the Applicant : Sh. Amit Chawla, Applicant.  
Present for the Department : Sh. T.C. Sharma, Departmental  
Representative

The above named applicant filed an application on 25.02.2014 under section 84 of Delhi Value Added Tax Act, 2004 (hereinafter referred to as the "said Act") and the questions put up for determination under the aforesaid provision of law are as under :-

**"Whether 'pencil' sold with or without geometry box is covered in entry at Sl. No.31 of First Schedule appended to the Delhi Value Added Tax Act, 2004 ?**

and

**Whether 'mini colour pencil' or colour lead pencil' used by students is covered in entry at Sl. No.31 of First Schedule appended to the Delhi Value Added Tax Act, 2004 ?"**

2. The application has been preferred in the prescribed format DVAT-42 and the requisite fee of Rs.1,000/- paid through demand draft Nos. 729393 and 729394 both dated 24.02.2014 of Indian Bank, Bahadurgarh, Haryana.

*(Handwritten signature)*



3. The applicant appeared and reiterated the facts and grounds of determination. He stated that coloured pencil, crayons used for drawing and ordinary graphite/lead pencils are tax free in Haryana. He further stated that the geometry box which besides compass, divider, eraser, sharpener, foot ruler etc. also contains pencil, so it is covered under entry no.31 of Schedule I appended to DVAT Act, 2004. He further stated that the lead pencil is used mainly by the students and as the entry no.31 of the First Schedule covers Geometry Box, Pencil Sharpener and Pencil Box, so the intent of the entry is to cover pencil and all other allied items kept in a geometry box. He emphasized that although a limited quantity of pencil is used by Executives also, but it is mainly used by the students.

He further stated that the purpose of entry 31 of First Schedule is to cover the items mainly used by students and the colour lead pencil is nothing but crayons or colours used in drawings by students. Hence, it is covered by entry no.31 of First Schedule appended to DVAT Act, 2004.

4. For the convenience of interpretation the relevant entries of DVAT Act, 2004, have been reproduced below:

Entry no.31 of the First Schedule appended to the DVAT Act, 2004:

*“Slate and slate pencils, geometry boxes, colour boxes, crayons, pencil sharpeners and empty pencil/geometry box.”*

Entry no. 76 of the Third Schedule appended to the DVAT Act, 2004:

*“Writing instruments costing upto rupees one thousand per piece.”*

The DR submitted that the ‘geometry box’ as mentioned in entry no.31 of the First Schedule appended to the DVAT Act, 2004, covers geometrical instruments contained therein i.e. Compass, Divider, Foot Rule (of 6 inch maximum in length), Set Square, Protector and pencil is not covered by this entry. The DR stated that as there exists a specific entry for writing instruments




and pencil being a writing instrument shall not be covered by a general entry i.e. entry no. 31 of the First Schedule. Based on the said logic, he stated that the lead pencil is a writing instrument and is covered under entry no.76 of the Third Schedule appended to the DVAT Act, 2004.

As regards the coloured pencil, the DR stated that the entry no. 31 of the First Schedule appended to the DVAT Act, 2004, as mentioned above, is different from the entry no.14 of Schedule B appended to the Haryana VAT Act, which reads as under:-

*“Coloured pencil, crayons used for drawing and ordinary graphic pencil popularly known as lead pencil.”*

The DR further stated that coloured pencils are different from crayons even by their appearance and in common parlance cannot be treated as crayons. The coloured pencil is not ordinarily used for writing purpose, hence cannot be covered under entry no.76 of the Third Schedule appended to the DVAT Act, 2004, which covers *“Writing instruments costing upto rupees one thousand per piece”*. The DR referred to chapter on ‘writing instrument’ from Wikipedia wherein under the sub title ‘With inherent pigment’ it has been mentioned that *“Both pencils and chalk exist in variants which can create marks in other colors, but colored pencils and colored chalk are generally considered to be art supplies rather than writing instruments. ....”* So, the coloured pencil is used for art/drawing purpose and is an unspecified item.

5. I have perused in detail the application filed under Section-84 of the Delhi Value Added Tax Act, 2004, various schedules appended to the DVAT Act, 2004, nomenclature of the products under consideration and after having heard both the parties, I am of the considered view that lead pencil is covered by entry no. 76 of the Third Schedule appended to the DVAT Act, 2004. Further, the coloured pencil is not covered under any of the entry of any of the Schedules appended to the DVAT Act, 2004,



hence, is an unspecified item covered under section 4(1)(e) of the Act and is taxable @ 12.5%.

6. Held accordingly.

(Prashant Goyal)  
Commissioner, VAT

Copy for information and necessary action to:

1. Applicant
2. Addl. Commissioner (Law & Judicial)
3. Assistant Commissioner (Policy)
4. System Analyst, for uploading this order on web.
5. President, Sales Tax Bar Association (Regd.)
6. Guard File

(Prashant Goyal)  
Commissioner, VAT

