

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

No.365/CDVAT/2014/ 266

Date: 23.06.2014

M/s. M.D. Traders,
A-25, 26, Gali No.1,
Old Seemapuri,
Delhi-110095.

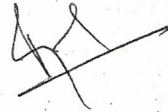
ORDER

Present for the Applicant : Sh. Mukhtar Ahmad, Counsel
Present for the Department : Sh. T.C. Sharma, Departmental
Representative

The above named applicant filed an application on 30/04/2014 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:-

“Rate of Tax on Scraps of Breads, Biscuits, Chips (not to be consumed by humans) & what is called cattle feed?”

2. The application has been preferred in the prescribed format DVAT-42 and the requisite fee of Rs.500/- paid through demand draft No. 006543 dated 05.03.2014 of Axis Bank Limited, Dilshad Colony, Delhi-110095.
3. M/s. M.D. Traders, A-25, is a registered dealer having TIN 07710347584 and is engaged in trading of scraps of biscuits, chips, breads etc. not to be consumed by humans.





4. Sh. Mukhtar Ahmad, Counsel of the applicant appeared and explained the grounds of the application and requested to determine the rate of tax on scraps of Breads, Biscuits and Chips (not to be consumed by humans).
5. Departmental Representative stated that as per Wikipedia, the word 'feed' more often refers to Fodder. Cattle Feed or Animal Feed is given to domestic animals in the course of animal husbandry. Fodder includes hay, straw, silage, compressed and pelleted feeds, oils and mixed rations, and sprouted grains and legumes. Feed grains like wheat, oats, barrel and rice or the most important source of animal feed globally. Traditional sources of animal feed include household food scraps and the byproducts of **food processing industries** such as milling and brewing. Besides the above natural feeds, 'compound feed' is fodder that is blended from various raw materials and additives and are formulated according to the specific requirements of the target animal.

The Ministry of Food Processing, Government of India indicates the following segments within the **Food Processing industry**:

- Dairy, fruits & vegetable processing.
- Grain processing.
- Meat & poultry processing
- Fisheries
- Consumer foods including packaged foods, beverages and packaged drinking water.

As per the Annual Report 2004 of Ministry of Food Processing India, the consumer foods include Snack food, Namkeens, Biscuits, Ready to eat food, Alcoholic and Non-alcoholic beverages.

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6. The Entry No.3 of the First Schedule of Delhi Value Added Tax, 2004, is reproduced here:

“Aquatic feed, poultry feed and cattle feed including grass, hay and straw, supplement and husk of pulses, concentrates and additives, wheat bran and de-oiled cake.”

In the above entry, the word ‘including’ has been used. So, here it is intended that the enumerated goods specified after the general expression are to be only illustrative but not exhaustive, the word “including” is used and where the intention of the legislature is that the enumerated commodities should be exhaustive, they used the word “namely” or “that is to say”. (Balaji General Stores vs. Dy. CCT(1987) 65 STC 108 (AP-FB).

Similarly, the entry “all arms including rifles, revolvers, pistols” opens with the general expression “**all arms**” and merely by way of illustration uses the inclusive portion by reference to rifles, revolvers and pistols. Therefore, even if an article is not a rifle or revolver or pistol, it will come within the entry if it falls within the scope of arms. (Standard Fire Works Ind. Vs. State of Tamil Nadu (1977) 40 STC 403 (Mad).

The Departmental Representative stated that keeping in view the meaning of animal feed as per Wikipedia and also as per common parlance meaning and as per the practice of the society and industry, the scraps of Breads, Biscuits, Chips (not for human consumption) are cattle/animal feeds.

AK



7. 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, and after having heard both the parties, I am of the considered view that the scraps of Breads, Biscuits, Chips, which are the bye products of the food processing industry at the time of manufacturing, and are not traded in sealed pack and which carry labels such as 'Not for human consumption' are cattle/animal feed and are covered under Entry No.3 of the First Schedule appended to the DVAT Act, 2004, hence, exempt from levy of VAT.
8. However, the scraps of Breads, Biscuits, Chips sold in sealed pack, in general, without any specific labelling such as 'Not for human consumption' are not covered by the entry No.3 of the First Schedule.
9. Held accordingly.

(Prashant Goyal)
Commissioner, VAT

Copy for information and necessary action to:

1. Applicant
2. Addl. Commissioner (Law & Judicial)
3. Value Added Tax Officer (Policy Branch)
4. Programmer (EDP) for uploading the order on the web.
5. President, Sales Tax Bar Association (Regd.)
6. Guard File


(Prashant Goyal)
Commissioner, VAT

