

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

No.364/CDVAT/2014/ 267

Dated: 26.06.2014

M/s. P.S. Concrete,
Khasra No.12/22/1,
C/o. Ranbir Poultry Farm,
Bhaktawarpur,
Delhi-110036.

ORDER

Present for the Applicant : Sh. Vinod Gupta, Counsel
Present for the Department : Sh. T.C. Sharma, Departmental
Representative

The above named applicant filed an application on 21/04/2014 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:-

**“Significance and meaning of ‘Malba’ as contained at S. No. 87 of
First Schedule (inserted on 01.04.2013)”**

Further, the dealer has raised three ancillary questions which are as under:

- 7992/EDB
30/6/14
- a. Significance and Definition of ‘MALBA’ used as input for manufacturing in terms of Entry No. 87 as stated hereinabove along with the applicable rate of tax on MALBA, if any.
 - b. Whether it is mandatory to purchase MALBA from registered Dealer only.
 - c. Whether already CRUSHED MALBA material purchased from other dealer for manufacturing of tiles qualifies for exemption as per entry no. 87. Whether Job Work involve for crushing MALBA from outside party affect the exemption.





1. The application has been preferred in the prescribed format DVAT-42 and the requisite fee of Rs.500/- paid through demand draft No. 666354 dated 19.03.2014 of Corporation Bank, Karol Bagh, New Delhi.
2. M/s. P.S. Concrete, Kh No.12/22/1 C/o. Ranbir Poultry Farm, Bakhtawarpur, Delhi-110036, is a registered dealer having TIN 07950402936.
3. Sh. Vinod Gupta, Counsel of the applicant appeared and submitted that the applicant is engaged in the manufacturing of CC Tiles (Cement Concrete Tiles) and Kerbstones, which is chargeable to Tax @ 12.5%. Cement, Rodi, Stone Dust, Pigments and admixtures as inputs which is being purchased on Tax Invoices.
4. The entry no. 87 of First Schedule appended to DVAT Act, 2004, is as under:

"87. Tiles made from Malba and Kerbstones made from Malba"

The Departmental Representative stated that 'malba' is the material recovered from demolition of an existing building/civil structure. The significance of the entry relating to malba is to encourage the use of malba in the manufacturing of tiles and kerb stones. But such dealers shall not be entitled for Input Tax Credit on raw material under section 9 of DVAT Act, 2004, e.g. Cement etc. because the finished product (Tiles & Kerb Stones made from 'malba') is exempt under section 6 of DVAT Act, 2004. Further, sale of malba from one dealer to another dealer is taxable @ 12.5%. In other words, trading of 'malba' is not exempt, but, Tiles & Kerb Stones manufactured by using such malba are exempt from levy of VAT. It is not necessary to purchase it from a registered dealer because it is not possible that every person who is demolishing his old structure is a registered dealer.



Due to environmental pollution constraints, the crushing of stones and operation of Reinforced Cement Concrete (RCC) plants is banned in Delhi. So, it is not legal to allow job work relating to crushing of 'malba'.

5. I have perused in detail the application filed under Section-84 of the Delhi Value Added Tax Act, 2004, and after having heard both the parties and going through the file pertaining to the insertion of the entry no.87 in the First Schedule appended to the DVAT Act, 2004, I am of the considered view that :

'Malba' means the residue of building material recovered from the demolition of civil structure and which mainly comprises of broken/used bricks, cement plaster and broken slabs.

The significance of the said entry is that the legislature in order to encourage the use of malba in the manufacturing of Tiles and Kerbstones allowed the exemption under Entry No.87 of the First Schedule.

As the final product i.e. Tiles & Kerbstones made from Malba, being exempt from levy of tax, so the dealer shall not be entitled for Input Tax Credit on raw material under DVAT Act, 2004. However, the trading of malba/crushed malba from one dealer to another dealer is taxable @ 12.5%. I agree with the Departmental Representative that trading of 'malba' is not exempt, rather it is the Tiles & Kerbstones manufactured by using such malba that are exempt from levy of VAT. For manufacturing of Tiles & Kerbstones using malba, it is not necessary to purchase malba from a registered dealer because every person who is demolishing his old structure is not a registered dealer.



The issue of job work of crushing of 'malba' involves environmental issue which is to be addressed by Delhi Pollution Control Committee.

6. Held accordingly.

(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. Programmer (EDP) for uploading the order on the web.
6. President, Sales Tax Bar Association (Regd.)
7. Guard File

~~(Prashant Goyal)~~
~~Commissioner, VAT~~

