

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

No.339/CDVAT/2013/189

Dated: 02.09.2013

M/s BIL Trading Pvt. Ltd.
N-86, Panch Sheel Park,
Delhi-110007

ORDER

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

The above named applicant filed an application on 04/06/2013 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 rate of tax will be chargeable on sale of items such as Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders?”

2. The application has been preferred in the prescribed format DVAT-42 and the requisite fee of Rs.500/- paid through demand draft no. 421887 dated 27.05.2013.
3. The applicant is engaged in sale & purchase of Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders.
4. Sh. Vinod Sabharwal, Counsel for the applicant appeared and reiterated the grounds of the determination application. He claimed that the items under

determination may fall under 'Capital Goods' appearing at Sl. No. 86 (vii) of Schedule III appended to the DVAT Act, 2004 under sub-heading 'machinery for engineering industries'. He also referred to the entry no. 103 of Schedule IV of the Andhra Pradesh VAT Act, 2005 in which these items are taxable @5%.

5. The Departmental representative submitted that as per section 2 (f) of the DVAT Act, 2004, the definition of term 'Capital Goods' is as under:

Section 2 (f) – “capital goods” means plant, machinery and equipment used, directly or indirectly, in the process of trade or manufacturing or for execution of works contract in Delhi.

The Departmental representative stated that the items under consideration i.e. Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders cannot be treated as 'Capital Goods', because these items neither used directly or indirectly in the process of trade or manufacturing nor for execution of any works contract in Delhi. Thus, these items are not included in the list of 'capital goods' as specified in entry no. 86 of Schedule III appended to the DVAT Act, 2004. He further pointed out that in Andhra Pradesh VAT Act, 2005 specific entry has been provided in Schedule IV under 'tools and instruments' heading which covers these items but in DVAT Act, 2004 no such entry exists, therefore, these items are unspecified item covered under section 4 (1) (e) of the DVAT Act, 2004.

6. I have perused in detail the application filed under Section-84 of the Delhi Value Added Tax Act, 2004 and heard both the parties. After going through the various schedules appended to the said Act, I am of the considered view that the items Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or

geophysical instruments and appliances, excluding compasses; rangefinders are unspecified items falling under section 4 (1) (e) of the Delhi Value Added Tax Act, 2004 and taxable at the rate of 12.5%. Held accordingly.

(Prashant Goyal)
Commissioner, VAT

Copy for information and necessary action to:

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

(Prashant Goyal)
Commissioner, VAT