

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

No.336/CDVAT/2013/ 183

Dated: 18-7-2013

G.K. Malhotra
F-1/29 B, Hari Nagar,
New Delhi-110064

ORDER

Present for the Applicant : Sh. Jagmohan Singh, CA
Present for the Department : Sh. T.C. Sharma, Departmental
Representative

The above named applicant filed an application on 24.5.2013 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 DVAT on cups/glasses of paper containing printed name?"

2. The application has been preferred in the prescribed format DVAT-42 and the requisite fee of Rs.500/- paid through demand draft no. 233656 dated 21.05.2013.
3. The applicant is proprietorship firm and intends to deal in manufacturing and trading of cups and glasses of paper having printed name or different logos printed on them which are mainly used for serving water, tea, coffee, juice and other drinks etc.
4. Sh. Jagmohan Singh, Counsel for the applicant appeared and reiterated the grounds of the determination application. He submitted that prior to amendment in entry no. 98 of Schedule III appended to DVAT Act, 2004 'cups

and glasses both made of paper and plastics' were included. However, with effect from 21.06.2012 the word 'plastics' was deleted from entry no. 98 and due to the said amendment 'cups and glasses of plastic' are taxable at the rate of 12.5% as unspecified general item. The purpose of said amendment is to reduce the use of plastic material in day to day life which is not eco-friendly as compared to 'cups and glasses of paper' because paper is more eco-friendly and bio-degradable. He further stated that the intention of the legislature after amendment in said entry is to include only the 'cups and glasses of paper' whether printed or not.

5. The Departmental representative stated that cups and glasses having blending of plastic or in its coating does not fall in entry no. 98 of Schedule III appended to 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 entry no. 98 of III Schedule covers only cups/glasses made purely of paper and not containing plastic, in any form. All other cups/glasses are unspecified items that fall under section 4 (1) (e) of the Delhi Value Added Tax Act, 2004 and are hence 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