

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

No.340/CDVAT/2013/184

Dated: 18-7-2013

Kailco International
Plot No. 149, Sector-L, DSIDC
Industrial Area, Bawana,
New Delhi-110039

ORDER

Present for the Applicant : Sh. Shammi Kumar Gaind,
Advocate
Present for the Department : Sh. T.C. Sharma, Departmental
Representative

The above named applicant filed an application on 05/06/2013 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 is the rate of tax on 'Steam Radiator'?"

2. The application has been preferred in the prescribed format DVAT-42 and the requisite fee of Rs.500/- paid through demand draft no. 214703 dated 04.06.2013.
3. The applicant is a proprietorship firm and engaged in the business of manufacturing and trading of 'steam radiator' and is registered with the department having TIN no. 07750269865.
4. Sh. Shammi Kumar Gaind, Counsel for the applicant appeared and reiterated the grounds of the determination application. He stated that the applicant is actively involved in the manufacturing and sale of steam radiators, which are used in dye industries and laundries in hotels for drying. He further stated that his client is charging 12.5% rate of VAT on the sale of

this item whereas others manufactures of the said item are charging 5% rate of VAT on the pretext that the steam radiator is an industrial input, which is indirectly affecting his client's business.

5. The Departmental Representative stated that the item under consideration i.e. steam radiator is not included in the list of 'capital goods' as specified in entry no. 86 of Schedule III appended to the DVAT Act, 2004. For convenience, the said entry is reproduced below:

Entry no. 86 of Schedule III -

Capital goods as specified below:	
(i)	Machinery for tea industry;
(ii)	Machinery for food and food processing industries including flour mill;
(iii)	Machinery for sugar mill;
(iv)	Machinery for beverages, tobacco and tobacco products industries;
(v)	Machinery for jute, hemp, mesta textiles industries;
(vi)	Machinery for textile industries including hosiery other than jute,
(vii)	Machinery for engineering industries;
(viii)	Machinery for paint industry;
(ix)	Machinery for furniture and wood products industries;
(x)	Machinery for paper and paper products and printing, publishing and allied industries;
(xi)	Machinery for leather and fur product industries;
(xii)	Rubber, plastic, petroleum and coal product industry machinery;
(xiii)	Machinery for chemical and chemical products;
(xiv)	Machinery for basic metal and alloys industries;
(xv)	Machinery for non-metallic mineral product and industries;
(xvi)	Machinery for construction works;
(xvii)	Transport equipment and motor parts manufacturing machinery;
(xviii)	Mining machinery;
(xix)	Packaging machinery;
(xx)	Foundry machinery;

(xxi)	Agricultural machinery other than those mentioned elsewhere in any other Schedule;
(xxii)	Waste treatment plant and pollution control equipment manufacturing machinery;
(xxiii)	Machinery for printing industry;
(xxiv)	Machinery for iron and steel industry;
(xxv)	Machinery for refrigeration and cooling towers including air-conditioners;
(xxvi)	Cooling towers;
(xxvii)	Earth moving machinery;
(xxviii)	Spare parts, accessories and components of the plant and machinery specified in items (i) to (xxvii).

The departmental representative further submitted the 'Steam Radiator' is an 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 Steam Radiator is an unspecified item 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