

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

No.325/CDVAT/2012/123-128

Dated:25-4-2013

M/s Ruchi Soya Industries Ltd.  
Village Bhalswa, Delhi-110033

**ORDER**

Present for the Applicant : Sh. Balram Sangal, Advocate  
Present for the Department : Sh. T.C. Sharma, DR

The above named applicant filed an application on 07/11/2012 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: -

***“Whether Table Spread manufactured by the Company having approx 80% contents of edible oils and free from animal fat but with fats less than butter and margarine is liable to be taxed @5% falling within the ambit of entries at serial no. 25 and 75 of 3<sup>rd</sup> Schedule of DVAT Act, 2004?”***

2. The application has been preferred in the prescribed format DVAT-42 and the requisite fee of Rs.500/- paid through bank draft No. 814398 dated 07/11/2012.
3. M/s Ruchi Soya Industries Ltd is a registered company having its registered office at Mumbai. The company has its several branches all over the India. The Company is also registered in this department under Delhi Value Added Tax Act, 2004 having TIN no. 07390115251. The company is a manufacturer and seller of 'Table Spread' under the name 'Nutrela Premium Table Spread'.

4. Sh. Balram Sangal, Advocate & Counsel of the Company appeared and reiterated the grounds of the determination application. He stated that the major content of Table Spread is 80% edible oils, while rest 20% ingredients are salt, vitamins, permissible colours etc. The Counsel further submitted that as the major content of the said product is edible oil, it should be either covered under entry no. 25 or entry no. 75 of Schedule III of DVAT Act, 2004. Besides this, the counsel referred to the determination orders no. 314/CDVAT/2012/265-268 & 315/CDVAT/2012/269-272 dated 06.09.2012 in case of M/s Food Fats & Fertilizers Ltd. and M/s Behari Lal Darshal Lal Pvt. Ltd respectively.

5. The Departmental Representative submitted that the determination orders of M/s Food Fats & Fertilizers Ltd. and M/s Behari Lal Darshal Lal Pvt. Ltd referred by the counsel, were based on Hon'ble Supreme Court Judgment delivered in the case of Aluva Sugar Agency vs State of Kerala wherein it has examined whether the margarine is an 'Edible Oil' or not.

So, the above determination orders were in the line with the apex court judgment in the aforesaid case where the issue relating to margarine had been settled.

6. I have perused in detail the application filed under Section-84 of the DVAT Act and heard both the parties. After going through the judgement passed by the Hon'ble Supreme Court in the case of Aluva Sugar Agency vs State of Kerala, the apex court in para 20 has made the following observations:

*“Though one may not consume margarine directly or may not use for normal cooking, the fact is that margarine is used for preparing bakery items which are consumed by human being and, therefore, margarine is also edible. Having around 80% fat, and being in the nature of oil, in our opinion, it should be considered as edible oil.”*

In view of the above observations of the apex court and having regard to the fact that the item i.e. 'table spread' which also contains approx 80% fat, I am of the considered view that 'Nutrela Premium Table

Spread' is covered under entry no. 25 and 75 of III Schedule of DVAT Act, 2004. 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. President, Sales Tax Bar Association (Regd.)
6. Guard File

**(Prashant Goyal)**  
**Commissioner, VAT**