

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

No.333/CDVAT/2013/ 161

Dated: 7-6-2013

M/s Ocean Water-tech India Pvt. Ltd.,
BF-1, Mohan Tower, Commercial Complex,
Wazirpur Industrial Area, Delhi-110052

ORDER

Present for the Applicant : Sh. Raj Kishan Singla, CA
Present for the Department : Sh. T.C. Sharma, Departmental
Representative

The above named applicant filed an application on 22/03/2013 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 will be the rate of tax if item ‘Non-woven Fabric in cut pieces in various sizes’ (imported and indigenous) if sold in Delhi or outside Delhi?”

2. The application has been preferred in the prescribed format DVAT-42 and the requisite fee of Rs.500/- paid through bank demand draft no. 029127 dated 18.03.2013.
3. M/s Ocean Water-tech India Pvt. Ltd. is a registered dealer with this department having TIN 07690226442.
4. Sh. Raj Kishan Singla, Counsel for the applicant appeared and reiterated the grounds of the determination application. He submitted that the dealer proposes to start trading of item 'Non- woven fabric in cut pieces in various sizes (both imported and indigenous)'. He further stated that the item under determination could be covered either by entry no. 84 (186) of Schedule

III of the DVAT Act, 2004 under heading industrial inputs or by entry no. 164 of the Schedule III of the DVAT Act, 2004.

5. The Departmental Representative referred to the entry 84 (186) which reads as under:

Entry no. 84- Industrial Inputs-

Sub-Entry 186	Textile Finishing agents. Textile Printing Binder-PVA Copolymer Textile Non-woven binder-PVA copolymer Lamination emulsion-PVA copolymer Packaging emulsion-PVA copolymer Sticker Emulsion-PVA copolymer Binder for water based paint-PVA copolymer
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He submitted that item under determination is a non-woven fabric made by mechanically bonding a dry-laid staple fabric by water jet, which entangles the individual fibres, whereas the items included in the entry no. 84 (186) are finishing agents of Textile, thus the item under determination does not fall in the said entry. He further stated that the tax invoice cum challan submitted by the applicant shows that the item under determination i.e. 'Non- woven fabric in cut pieces in various sizes' is imported under name 'Spunlace Non-Woven Fabric' with HSN Code 56039400. In this context, he referred to the entry no. 117 and 164 of Schedule III of Delhi Value Added Tax Act, 2004. For convenience, both of the entries are reproduced below:-

Entry no. 117- Imported Textiles and Fabrics

Entry no. 164- All other varieties of textile fabrics and made ups as are specifically not covered by any other entry of any of the Schedules to the Act.

The Departmental Representative stated that the entry no. 117 is specifically for imported textiles and fabrics while the entry no. 164 of Schedule III is for textiles which are not covered by any other entry of the schedules to the said Act. So, the item 'Non- woven fabric in cut pieces in various sizes' if it is imported then it is covered under entry no. 117 of Schedule III of the DVAT Act, 2004, and in case it is manufactured indigenously, then the same is covered by entry no. 164 of Schedule III 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 item under determination i.e. 'Non- woven fabric', if imported then shall be covered by entry no. 117 of Schedule III appended to the Delhi Value Added Tax Act, 2004, and in case it is indigenously produced, then it is covered by entry no. 164 of Schedule III of appended to the Delhi Value Added Tax 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