

**GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES
14, BELIAGHATA ROAD, KOLKATA-700015**

Before Sri Binod Kumar, I.A.S., Commissioner, Sales Tax, West Bengal

In the matter of :

An application filed under section 102 of West Bengal Value Added Tax Act, 2003, read with rule 202 of the West Bengal Value Added Tax Rules, 2005.

- And -

In the matter of :

Case No: 24X/PRO/VAT/15/264

- And -

In the matter of :

Sri Rahul Antony Gomes, Proprietor, carrying on business under the trade name of M/s Polluxx Enterprise at 19/1F, Seal Lane, Kolkata – 700015.

Present for the applicant: CA Indranil Das, authorised representative

Sri Adesh Kumar, Additional Commissioner, Commercial Taxes/Sales Tax, and Public Relations Officer (PRO) of the Directorate of Commercial Taxes, was also present to assist in the matter

Date of order: 09.12.2015

This is an application filed by Sri Rahul Antony Gomes, Proprietor, carrying on business under the trade name of M/s Polluxx Enterprise, under section 102 of the West Bengal Value Added Tax Act, 2003 (hereinafter referred to as the VAT Act). The applicant holds VAT Registration No. 19404224060 and has raised a question for determination of rate of tax applicable to the sale of juice containing a mixture of mango juice and aloe vera pulp which is sold by him under the brand name of Yoga Pulp.

The applicant has duly affirmed that the dispute has not arisen out of any order passed by any authority and that he has not filed any application before any Court, Tribunal, Board or any authority under the VAT Act, praying for determination of a dispute of similar nature referred to in this application.

CA Indranil Das, authorised representative of the applicant, submitted that the applicant is in the process of importing and selling Yoga Pulp in West Bengal, constituents of which are as under:

- (i) Aloe vera juice and pulp – 12%
- (ii) Mango juice and pulp – 7%
- (iii) Cane sugar – 12.5%
- (iv) Water – 69% and
- (v) Preservatives and acidity regulators are also added.

Sri Das submitted that aloe vera has healing and medicinal powers and some of its parts can also be consumed as vegetable. He submitted further that the goods in question will be sold as 'Mango Aloevera Pulp & Juice' and considering its nature it should fall under item No. 58B of Part I of Schedule C of the WBVAT Act, 2003. He also furnished copies of container's label and literature related to the item.

Sri Adesh Kumar, PRO, stated that fruit drinks and fruit juices are enumerated under the entry at serial No. 58B of Part I of Schedule C appended to the WBVAT Act, 2003 and the item in question will fall under that entry if it is considered as fruit juice.

The matter is examined and submissions made by the authorised representative were heard and also the written statement and literature submitted therewith, by the authorised representative of the applicant, were perused.

The item 'Mango Aloevera Pulp & Juice' sold by the applicant under the brand name of 'Yoga Pulp' contains fruit juice as one of its ingredients and its commercial identity is as mango juice containing aloe vera.

Entry at serial No. 58B of Part I of Schedule C of the VAT Act is reproduced below:

“Processed and preserved vegetables and fruits, other than dry fruits, but including fruit jams, jelly, sauce, pickle, fruit squash, fruit paste, fruit drink and fruit juice, whether in a sealed container or not, and wet dates, but excluding those not containing any fruit or vegetable extract.”

From the words used in the foregoing entry it is evident that both, fruit drink as well as fruit juice are covered under the entry. Further, the entry does not exclude fruit juice mixed with other ingredients but the exclusion applies when the drink or juice does not contain any fruit extracts, as is the case of fruit-flavoured chemically prepared drinks or juices.

In view of the forgoing discussion rate of tax applicable to the sale of juice containing a mixture of mango juice and aloe vera pulp is held to be 5 % under section 16(2)(b)(ii) of the West Bengal Value Added Tax Act, 2003, vide entry at serial No. 58B of Part I of Schedule C.

Application filed under section 102 in the instant case is disposed of as above. Inform the applicant accordingly.

Sd/- 9/12/15
(Binod Kumar)
Commissioner,
Sales Tax, West Bengal