

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

**Before Ms. Smaraki Mahapatra, 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/16/306

- And -

In the matter of :

M/s Capital Photo Service Private Limited, carrying on business under the same trade name at 40, Dharamatala Street (Lenin Sarani), Kolkata-700013

Present for the applicant: Sri Pankaj Patwari and Sri Deepto Sen, Authorised Advocates

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: 15.02.2017**

This is an application filed by M/s Capital Photo Services Private Ltd., a Company carrying on business under the same trade name through Sri Sanjiv Bidasaria, Director, hereinafter referred to as applicant, under section 102 of the West Bengal Value Added Tax Act, 2003, hereinafter referred to as the VAT Act. The applicant, who holds VAT Registration No./ TIN 19441812045, has raised question for determination of rate of tax applicable to the sales of (1) Cannon Selphy Printers (Ultra Compact Printers); (2) Cannon Ink Cassette (RP-108/KP-108IN); and (3) Memory Card and Microchips (Flash Memory Cards).

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.

Sri Pankaj Patwari, authorised Advocate, submitted that the item Cannon Selphy Printers are Compact Printers used with computers and were earlier covered under HSN Code No. 8471 and enumerated under entry at serial No. 3 of Part II of Schedule C of the West Bengal Value Added Tax Act, 2003. The HSN code for these printers was 8471 up to December, 2006, and after that it was changed to 8443. He added that though Schedule C continued with the same description of goods but change in HSN Code was not affected by way of amendment. Sri Patwari furnished copy of a communication made by the Public Relations Officer of this Directorate under Memo No. 92 CT/PRO // 1A/PRO/387 dated 31.01.2007 addressed to the Executive Director of the Manufacturers' Association for Information Technology wherein it was stated that "the aim of legislature is always to tax the described item in the respective entry of Schedule C, Part II as appended in the WBVAT Act, 2004 and not to tax the item described in the HSN Code. HSN Codes are useful as referential instruments only. Therefore change in the HSN Codes of IT items can not change the taxability status of such item." Sri Patwari argued that the item, Cannon Selphy Printers, should attract tax @ 5 % as an IT product under serial No. 3 of Part II of Schedule C.

Sri Pankaj Patwari submitted further that whereas Computer Systems and Peripherals are covered under entry at serial No. 3 of Part II of Schedule C, their parts and accessories are covered under serial No. 4. Sri Patwari submitted that Cannon Ink Cassette (RP-108/KP-108IN), presently falling under HSN Code 9612, qualifies as part and accessory of Cannon Selphy Printer and hence it would fall under entry at serial No. 4 of Part II of Schedule C.

In the matter of Memory Card and Microchips (Flash Memory Cards) Sri Patwari submitted that Memory Cards falls under HSN Code 8523 and are specifically covered under item at serial No. 13 of Part II of Schedule C. Sri Patwari also made a written submission in this regard.

The matter is examined and arguments put forth by the applicant's representative are considered in the light of entries under Part II of Schedule C of the VAT Act.

Description of items against entry at serial Nos. 3, 4 and 13 of Part II of Schedule C appended to the VAT Act is as follows:

Serial No. (1)	Description of items (2)	HSN Code (3)
3.	Computer Systems and Peripherals, Electronic Diaries.	84.71
4.	Parts and Accessories of HSN 84.69, 84.70 and 84.71 for items listed above.	84.73
13.	Prepared unrecorded media for sound recording or similar recording of other phenomena including compact disc (CD) and digital versatile disc (DVD).	85.23

There is no doubt that Cannon Selphy Printer has connectivity with computers as an output device and hence it falls under the description 'Computer Systems and Peripherals' as mentioned under entry in column (2) at serial No. 3 above. That being the position the second item in question, that is, Cannon Ink Cassette (RP-108/KP-108IN), falls under the entry against serial No. 4 above, being the part and accessory of the goods mentioned against serial No. 3.

Memory cards and microchips, also known as flash memory cards, are prepared unrecorded media for recording of different phenomena including texts, pictures, graphics, sounds, etc., in digital format and fall squarely under the description of goods mentioned against serial No. 13 above.

In view of the above, rate tax on sales of Cannon Selphy Printers (Ultra Compact Printers), Cannon Ink Cassette (RP-108/KP-108IN) and Memory Card and Microchips (Flash Memory Cards) is determined at 5 % under section under section 16(2)(b)(ii) of the West Bengal Value Added Tax Act, 2003, vide entries at serial Nos. 3, 4 and 13 of Part II of Schedule C, respectively.

Application filed under section 102 in the instant case stands disposed of as above. Send a copy of this order to the applicant for information.

Sd/-15.02.2017  
(Smaraki Mahapatra)  
Commissioner,  
Sales Tax, West Bengal