

**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/15/251

- And -

In the matter of :

M/s Waheguru Rubber Manufacturing Co. (P) Ltd., carrying on business under the same trade name at 4, Princep Street, Kolkata – 700072.

Present for the applicant: Sri Pawandeep Singh Soni, Director, Sri Dibeyendu Bandyopadhyay, CEO and Sri Sumit Kumar Chakraborty, authorised Advocate of the applicant Company.

Date of order: 05.10.2015

This is an application filed by M/s Waheguru Rubber Manufacturing Co. (P) Ltd., (hereinafter referred to as the applicant) under section 102 of the West Bengal Value Added Tax Act, 2003 (hereinafter referred to as VAT Act). The applicant has raised a question for determination of the rate of tax applicable to the sale of rubber sealing rings and/or gaskets which are used for fittings of different types of ductile iron pipes.

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.

The applicant manufactures different rubber products at its factory situated at Delhi Road, Serampore, Hooghly and is registered under the VAT Act and holds Registration Certificate No. 19580720022 under Princep Street Charge.

The applicant submitted that the Rubber Sealing Rings and/or Rubber Gaskets manufactured by it are mainly used for joining Ductile Iron Pipes and that these items are covered under the Central Excise Tariff Heading No. 4016.93 under the description 'Gaskets, Washers and other Seals'. The applicant also stated that these rings are covered under IS 5382 (1985) of Bureau of Indian Standards which reads as under: "IS 5382 (1985) : Rubber Sealing Rings for gas Mains, Water Mains and sewers [PCD 13 : Rubber and Rubber Products]"

Sri Sumit Kumar Chakraborty, authorised Advocate of the applicant, submitted that the Rubber Sealing Rings and Rubber Gaskets manufactured by the petitioner fall under

entry 54 of Schedule C of the VAT Act, 2003, as ductile pipe fittings. The said entry includes “Pipes of all varieties including G.I. pipes, C.I. pipes, ductile pipes and PVC pipes, and fittings thereof”

Sri Soni, Director of the applicant Company, submitted that the main purchasers of the goods in question are M/s. Electrosteel Casting Ltd., M/s. Tata D.I. Pipe Ltd., M/s. Reshmi Metaliks Ltd., and M/s. Joibalaji Ltd. for the purpose of joining ductile pipes. He also furnished a certificate issued by M/s. Electrosteel Casting Ltd. certifying that they are using rubber sealing ring and/or rubber gaskets as the fittings of ductile iron pipes.

Sri Soni also made a written submission emphasizing that the word fittings mentioned in entry 54 is very wide so as to include all fittings which are required for the purpose of joining of pipes from any angle. Even the elbow/angle used for joining of two pipes in two different directions would also fall within the expression of fittings. In the present case, the rubber sealing ring and/or rubber gasket is used for joining of two pipes for the purpose of flow of water without any leak. Therefore, the said sealing ring and/or rubber gasket would fall within the expression fittings and as such tax on the said item should be @ 5%.

The matter is examined. The goods in question namely, Rubber Sealing Rings and/or Rubber Gaskets are not mentioned by name under any of the Schedules appended to the VAT Act. However, pipe fittings have been included under entry at serial No. 54 of Part I of Schedule C appended to the Act. The entry is as follows: “Pipes of all varieties including G.I. pipes, C.I. pipes, ductile pipes, and PVC pipes and fittings thereof”.

What constitutes the pipe fittings has not been specified in the above entry and it thus has to be understood by applying principles of common parlance meaning and use in normal trade practices.

The term pipe fittings includes all varieties of fittings used for- joining of pipes, branching of pipes, bending of pipes, reducing or enhancing diameter of pipes, end pieces to block pipes, etc. Further, since the entry begins with the words “Pipes of all varieties including G.I. pipes, C.I. pipes, ductile pipes and PVC pipes...” it is an illustrative and not exhaustive entry, and will thus also include fittings made of rubber in so far as they are used as pipe fittings.

In view of the forgoing discussion rate of tax applicable to the sale of sealing rings and gaskets made of rubber and used for fitting of different types of ductile iron pipes 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. 54 of Part I of Schedule C.

Application filed under section 102 in the instant case stands disposed. Inform the applicant accordingly.

Sd/-05/10/2015
(Binod Kumar)
Commissioner,
Sales Tax, West Bengal.