

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

No: 243/CDVAT/2009/09

Dated: 24.08.2009

**M/s Star Personal Transport Pvt. Ltd.
306, Hem Kunt House,
6, Rajindra Place,
New Delhi**

ORDER

Present for the Applicant : Sh. Neeraj Khiwani, Advocate
Present for the Department : Shri T.C. Sharma, DR.

The above mentioned applicant has filed an application u/s 84 of DVAT Act, 2004 (hereinafter referred to as the "said Act") and the question put up before this court for determination under the aforesaid provision of law is as under:-

“Whether the said personal transport or vehicle is exempted from tax or made taxable @ 4% under the entry of bicycles.”

2. The application for determination has been made in the prescribed format DVAT-42 and the requisite fee of Rs. 500/- has been paid through demand draft No. 211855 Dated 18-5-2009.
 3. The applicant is carrying on the business in personal transportation vehicles imported from USA.
 4. Sh. Khiwani who appeared on behalf of the firm reiterated the grounds of the application of determination and explained that the said product is eco-friendly and is being used globally and has been introduced in India by the said dealer in order to reduce pollution. He stated that the personal transporter is a highly efficient two-wheeled transporter and is used at Airports, Railway Station and security installations by officers to patrol large areas more efficiently than on foot. He referred to "Reva" car which is a battery operated vehicle and has been exempted from sales tax in Delhi. He stressed that in the present case even if it is assumed a cycle, then it should be taxable @ 4%.
 5. The D. R. appearing on behalf of the department argued that the entry No. 12 of IIIrd Schedule of the said Act relating to 'Bicycles' covers conventional type of 'Bicycles' and does not cover the item under determination which is a personal transport. The second contention of the dealer that being pollution free it should be treated at par with "Reva" car and should be exempted from tax. In response to which it was clarified that the Reva car is meant to replace the petrol and diesel cars on road and stated to be extensively used for transportation during Commonwealth Games and it is also useful for general public whereas the product of the applicant 'personal transport' is a substitute for 'walk'. So it can not be at par with the "Reva" car. As such 'personal transport' is an unspecified item and would attract tax @ 12.5%.
 6. I have carefully perused in detail the application filed u/s 84 of the said Act, written submission and also heard the counsel of the applicant and the DR, I have also gone through the entry and other details relied upon by the applicant and of the considered view that 'personal transport' does not find any place in any of the Schedules of DVAT Act 2004. It is therefore, unspecified item covered under section 4(i)(e) and would attract tax @ 12.5%. It is held and determined accordingly.
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