

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

No: 249/CDVAT/2009/19

Dated:26.02.2009

**M/s S R A Interiors and Decorators,
C-51, IInd Floor, Tagore Garden Extn.,
New Delhi- 110027.**

ORDER

Present for the Applicant : Sh. Virag Tiwari , Advocate.
Present for the Department : Sh. T.C. Sharma, DR

The above named applicant has filed an application on 1-09-09 under Section 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 contractor is liable to tax on a work contract executed by the sub-contractor, where the property in goods passes to the contractee directly by theory of accretion?”

- 2 The application for determination has been made in the prescribed format DVAT-42 and the requisite fees of Rs. 500/- paid through Demand Draft No. 769167 dt 1-09-09.
 - 3 The issue has already been examined by this Court while deciding a similar determination in the case of M/s Doshion Veolia Water Solutions Pvt. Ltd. vide order No.246/CDVAT/2009/14 dated 23-12-2009. In the said determination order the issue raised by the applicant has been discussed at length. Moreover, it depends upon the facts of the case and terms of the contract as to whether decision by Hon'ble Supreme Court in the case of State of Andhra Pradesh vs. Larsen & Toubro 2008-TIOL-158-SC-VAT can be applied, which can be decided by the Assessing Authority at the time of assessment/audit.
 4. The Counsel for the dealer has furnished a copy of the case decided by the Appellate Tribunal VAT, Delhi, in Hindustan Prefeb Ltd., Jangpura, New Delhi. However, this case is distinguishable from the present determination given in the case of Hindustan Prefeb Ltd., as per DVAT Tribunal order the appellant was merely an executive agency on behalf of various government departments. The query raised by the dealer is disposed off accordingly.
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