

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

No: 251/CDVAT/2009/21

Dated:09.03.2010

M/s Ballapur Industries Limited
48, Okhla Industrial Estate, Phase III
New Delhi- 110020.

ORDER

Present for the Applicant : Sh. K P Roy, A. R.
Present for the Department : Sh. T.C. Sharma, DR

The above named applicant has filed an application on 17-09-09 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 :-

“(a) What is the rate of Tax under DVAT Act on “Glue Stick”?”

“(b) What is the rate of Tax under DVAT Act on “Cello Tape”?”

2. Two applications for determination have been made in the prescribed format DVAT-42 and the requisite fees of Rs. 1,000/- paid through Demand Draft No. 823709 dated 17-09-2009.

3. The representative of the company stated that ‘Gue Stick’ & ‘Cello Tape’ have been imported and are being sold in the local market by the applicant.

4. The DR on behalf of the department stated that this court has already passed an order in the case of M/s Anchor Electricals pvt. Limited vide No. 195/CDVAT/2007/190 dated 28-02-2008, wherein it has been held that PVC Tape/ Electrical Insulation Tape are taxable @ 12.5%. So the ‘Cello Tape’ may also be taxed @ 12.5%. DR did not oppose the contention of the representative of the applicant as regards to the item ‘Glue Stick’ being covered under entry No. 68 of Third Schedule appended to the DVAT Act, 2004.

5. The representative of the company stated that the item ‘Cello Tape’ is different from the item PVC Tape/ Electric Insulation Tape because in this case aheive is put on the strip of plastic and is covered under Part –A (Industrial Inputs) at Sr. No. 165 of entry No. 84 of Third Schedule appended to the DVAT Act, 2004 which reads as under:-

“ Self adhesive plates, sheets, film foil, tape, strip of plastic whether or not in rolls ”

The DR agreed with the interpretation made by the representative of the applicant.

6. I have pursued in detail the applications filed u/s 84 of the Act and heard both the parties. After going through the relevant extracts of the CAT and the literature of the items given in Question, I am of the considered view that (i) ‘Glue Stick’ being covered under the entry No. 68 of the Third Schedule appended to the Dvat Act, 2004 (ii) ‘Cello Tape’ is covered under Part –A (Industrial Inputs) at r No. 165 of Entry No. 84 of Third Schedule appended to the Dvat Act, 2004. So both the items are taxable at the rate of 5%. It is held and determined accordingly.
