

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

No: 252/CDVAT/2009/18

Dated: 22.02.2010

**M/s Parveen Kumar Verma
Road No. 6, House No. 15,
Punjabi Bagh Extension,
Delhi-110026**

ORDER

Present for the Applicant : Sh. Rakesh Garg, CA
Present for the Department : Shri T.C. Sharma, DR.

The above named applicant has filed an application on 18/9/09 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 "Blood-Gas-Electrolyte Analyser" used for diagnosis of blood and serum and its parts, sensors, controls, reagents, calibrators, wash solutions, standard etc. fall under entry no. 16 of the Schedule III of the Delhi VAT Act, read as, "Drugs & medicines including" or under entry No. 92 of the Schedule III, read as, "Medical equipment/devices and implants?"

2. The application for determination has been made in the prescribed format DVAT-42 and the requisite fees of Rs. 500/- paid through Bank Challan on 17-9- 009.
 3. The applicant is proposing to trade in "Blood-Gas-Electrolyte Analyser", which is a medical diagnostic equipment used for in-vitro examination of blood and serum. The applicant also intends to sell its parts, reagents, control calibrators, standards for operation of this machine.
 4. Sh. Garg who appeared on behalf of the applicant reiterated the grounds of the application of determination and submitted some literature for the item he is seeking determination for. During the argument the counsel for the applicant stated that the above mentioned items are covered under entry No. 92 of Third Schedule of DVAT Act, 2004 and attracts tax @ 4%.
 5. The DR on behalf of the Department argued that the item i.e. Blood-Gas- Electrolyte Analyser is not covered by entry no. 16 of Third Schedule of the said Act but the Blood-Gas-Electrolyte Analyser and its parts, sensors, controls, reagents, calibrators, wash solutions, standard can be covered by entry no. 92 which reads as "Medical equipments, devices and implants."
 6. I have perused in detail the application filed u/s 84 of the Act and heard both the parties. After going through the relevant extracts of the Act and the literature of the item in question, I am of the considered view that Blood-Gas-Electrolyte Analyser and its parts, sensors, controls, reagents, calibrators, wash solutions, standard are covered by entry no. 92 of Third Schedule of DVAT Act, 2004 and thus taxable at the rate of 5%. It is held and determined accordingly.
-