

**ORDER OF CLARIFICATION MADE BY SHRI RAMENDRA JAKHU,
FINANCIAL COMMISSIONER & PRINCIPAL SECRETARY,
GOVERNMENT OF HARYANA, EXCISE AND TAXATION
DEPARTMENT UNDER SECTION 56(3) OF THE
HARYANA VALUE ADDED TAX ACT, 2003**

Queriest : Assistant General Manager, FCI, Panchkula.

Assistant General Manager, Food Corporation of India have sought clarification u/s 56(3) of the Haryana VAT Act regarding the nature of sale, whether interstate sale or intrastate sale, in respect of tender released for dismantling and disposal of railway siding at FSD, Karnal. The tender for dismantling and disposal of the railway siding lying in Food Storage Depot, Karnal was accepted in favour of M/s Tandon Enterprises, Motia Khan Mandi, Gobindgarh (Punjab). As per the terms of the tender, the work involved dismantling and disposal of existing railway siding at FSD, Karnal consisting of rails, nutbolts, fish plates, cotters and keys, steel sleepers/CST 9 sleepers and spikes etc. on **as is where is basis**, complete in all respects including of cleaning of sites as per the directions of the Engineer Incharge. It is clear from the terms of the tender that carriage was to be done exclusively by the buyer on its risk and cost and it is not implied in terms of the tender that goods are to be carried out of the State. The buyer was at liberty to dispose of the dismantled material at the site itself. Thus it is not implied in the tender document that the dismantled railway siding is to be carried out of state and hence the transaction is not of interstate nature. The fact that the buyer is prepared to issue Form C and take out the goods from Haryana doesn't alter the exact nature of the transaction. The nature of transaction is to be decided by the term of the tender and as explained above the buyer M/s Tandon Enterprises, Mandi Gobindgarh, Punjab has been entrusted with the goods at site on **as is where is basis** and the transaction is of interstate nature. Matter is clarified accordingly.

Place : Chandigarh
Dated : 21-01-08

(RAMENDRA JAKHU)
Financial Commissioner & Principal Secretary
to Govt. of Haryana, Excise and Taxation Department.

Issued vide letter No. 272-274/ST-I, Dated 22-01-08