

**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**

**Querist: M/s ABB Limited, 32, Industrial Area, NIT, Faridabad  
holding TIN - 06651303132**

The applicant queriest M/s ABB Limited, 32, Industrial Area, NIT, Faridabad holding TIN - 06651303132 has sought clarification under section 56(3) of the Haryana VAT Act, 2003, as to their VAT liability in respect of goods supplied by them to Delhi Metro Rail Corporation Limited (DMRCL) in execution of works contract awarded to them for Gurgaon Metro Corridor (Gurgaon section) and further whether tax being deducted by DMRCL under section 24 of the Haryana VAT Act is refundable/adjustable by the queriest against some other liability. The queriest, besides its normal business of manufacturing and trading of Motors and Instruments is also engaged in execution of work contracts for which it has exercised option to pay lump sum tax as per provisions of rule 49 of the Haryana VAT Rules read with section 9 of the Haryana VAT Act. The queriest is executing works contract awarded to him by Delhi Metro Rail Corporation pertaining to Gurgaon section of Gurgaon Metro Corridor. Goods (except goods mentioned in schedule D) sold to DMRCL for completion of Gurgaon Metro Corridor (Gurgaon section) have been exempted from levy of VAT vide entry 3(A) of schedule B appended to the Haryana VAT Act w.e.f. 30.11.2006. Plea of the queriest is that since the supplies of goods to DMRCL have been exempted from levy of VAT vide the entry explained above, he is not liable to pay any VAT on goods supplied by him to DMRCL for execution of works contract awarded to him and since he has no any tax liability viz-a-viz the goods supplied to DMRCL for completion of Gurgaon Metro Corridor (Gurgaon section), tax deducted by DMRCL under section 24 of the Haryana VAT Act against payments made by them to the queriest is liable to be refunded or adjustable against other demand of the applicant. The matter has been examined. As already explained, the queriest has opted for lump sum tax and, as per provisions of rule 49(7) of the Haryana VAT Rules, a lump sum contractor has to pay lump sum in respect of every works contract awarded to him after the

award of the contract in respect of which he first elected to pay lump sum. The contractor cannot have selective approach thereafter. In view of these facts, since the queriest has opted for lump sum, he is liable for lump sum tax viz-a-viz the supplies made by him to DMRCL as well despite the fact that goods supplied to DMRCL for completion of Gurgaon Metro Corridor (Gurgaon section) have been exempted from VAT. On the basis of these very facts the queriest is not entitled for any refund of tax deducted at source by DMRCL or adjustment of tax deducted at source by DMRCL against some other tax liability of the queriest. The matter is clarified accordingly.

Chandigarh  
Dated: 28.11.2008

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

Issued vide letter No. 2595-97/ST-I, dated 16.12.2008