

From

Excise & Taxation Commissioner,  
Haryana, Vanijya Bhawan, Sector-5,  
Panchkula.

To

All the Dy. Excise & Taxation Commissioner (ST),  
in the State of Haryana.

Memo No. 1449 /ST-1,  
Panchkula, dated the 21/4/10

Subject :- **Circulation of Clarification – M/s Larsen and Toubro Ltd., 12/4, Delhi-  
Mathura Road, Faridabad, TIN No. 06811200418.**

**MEMORANDUM**

A copy of clarification order issued by Financial Commissioner & Principal Secretary, Government of Haryana, Excise & Taxation Department under section 56(2) and 56(3) of Haryana Value Added Tax Act, 2003 sought by M/s Larsen and Toubro Ltd., 12/4, Delhi- Mathura Road, Faridabad is sent herewith for information and necessary action by all the concerned.

*(Signature)*  
Superintendent (Sales Tax)

for Excise & Taxation Commissioner, Haryana.

Endst. No. 1450 /ST-1, Panchkula, dated the 21/4/10

A copy alongwith copy of clarification is forwarded to the following for information and necessary action :-

- Registered*
1. Sh. K.L. Guglani, M/s Larsen and Toubro Ltd., 12/4, Delhi- Mathura Road, Faridabad.
  2. Addl. Excise & Taxation Commissioner, Haryana Institute of Public Administration, 76 HIPA Complex, Sector – 18, Gurgaon.
  3. Jt. Excise & Taxation Commissioner (Division/Range) Ambala, F/Bad, Gurgaon and Hisar.
  4. All Joint, Excise & Taxation Commissioners (Appeals) in the State of Haryana.
  5. Senior Deputy Accountant General (Audit), Haryana, Chandigarh.
  6. Dy. Excise & Taxation Commissioner (Vigilance), Haryana Vigilance Bureau, Sector – 6, Panchkula.

*(Signature)*  
Superintendent (Sales Tax)

for Excise & Taxation Commissioner, Haryana.

Endst. No. 1451 /ST-1, Panchkula, dated the 21/4/10

A copy alongwith copy of clarification is forwarded to the following in the Head Office for information and necessary action :-

1. All Addl. Excise and Taxation Commissioners
2. Flying Squad Officer
3. All Jt. Excise and Taxation Commissioners
4. Jt. Director (L)-I and II
5. Dy. Excise and Taxation Commissioners
6. DA-I and II
7. DDA-I & II
8. Superintendent (C) for sending E-mail to all the DETC(ST) and uploading on website.
9. ST-II only (For adding in Annual Sales Tax Circular, 2009.

*(Signature)*  
Superintendent (Sales Tax)

for Excise & Taxation Commissioner, Haryana.

**ORDERS OF INSTRUCTIONS/ CLARIFICATION ISSUED BY  
SH.RAMENDRA JAKHU, FINANCIAL COMMISSIONER & PRINCIPAL  
SECRETARY, GOVERNMENT OF HARYANA, EXCISE AND TAXATION  
DEPARTMENT UNDER SECTION 56(2) AND 56 (3) OF THE  
HARYANA VAULE ADDED TAX ACT, 2003.**

Subject: Liability of the contractee to deduct tax at source-  
Suo-moto issue of instructions/clarifications u/s 56(2) and  
56(3) of the Haryana VAT Act-

Section 24(1) of the Haryana VAT Act 2003 provides for deduction of tax at source by the contractee out of the payments that are to be made by him to the contractor for execution of works contract in the State involving transfer of property in goods, whether as goods or in some other form. M/s Larson and Toubro, a dealer registered under Haryana VAT Act, holding TIN No. 06811200418, have filed CWP No. 14797 of 2010 in the Punjab and Haryana High Court and, through the aforesaid CWP, the petitioner has sought modification of relevant provisions of Haryana VAT Act and Rules thereunder so that the turnover which is in nature of interstate purchase, purchase in course of import and purchases and sales which are outside the state are not subjected to deduction of tax at source by the contractee while making payments to the contractor.

In view of modification sought by the petitioner through the aforesaid CWP, the relevant provisions of Haryana VAT and Rules thereunder have been examined in detail and, to set at rest any doubts as to liability of the contractee to deduct tax at source, the matter is further clarified by way of issuing instructions/clarifications in accordance with the provisions of section 56(2) and 56(3) of the Haryana VAT Act. Overall scheme of the Haryana VAT Act and Rules thereunder provides for deduction of tax at source by the contractee out of the payments that are to be made by him to the contractor for execution of works contract in the State involving transfer of property in goods, as explained earlier. As is clear from the language of section 24(1) the turnover which is subjected to deduction of tax at source by the contractee is only that turnover which is covered under the provisions of Haryana VAT Act. Thus the provision is applicable on the transactions in nature of intra-state sales and purchases only. The contractee has no liability to deduct tax at source on the transactions which are in nature of inter-state purchases, purchases in course of import or purchase and sale outside the State. Thus in cases of transactions which are purely in nature of inter-state purchase, purchases in course of import and purchases and sale outside the State the purchaser, viz the contractee, has no liability to deduct tax at source as provided in

section 24(1) of the Haryana VAT Act, while making payment to the supplier of such goods. However, the contractee in such cases should provide information to the concerned Assessing Authority, on quarterly basis, the details of purchases on which tax at source is not being deducted and paid to the State exchequer by him, and, if the Assessing Authority, on examination, finds that such purchases are not purely in nature of inter-state purchases, or purchase in course of import, or purchase and sale outside the state, as claimed by the contractee, contractee in such cases shall be liable to pay tax to the department at the full rate prescribed under rule 33(1) of the Haryana VAT Rules ( i.e. @ 4% as on date) on such disputed turnover without prejudice to any other provisions under the Act and Rules. The instructions/clarifications issued above have no bearing on the actual tax liability to be computed/assessed by the appropriate Assessing Authority as per provisions of Haryana VAT Act and Rules thereunder. The matter is clarified accordingly.



(RAMENDRA JAKHU)

Chandigarh  
Dated:

Financial Commissioner & Principal Secretary  
to Govt. Haryana, Excise and Taxation Department