

(Issued vide no. 607/ST-1, dated 7.4.2006)

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

Querist: Mohinder Lal & Company, Radaur Road, Yamunanagar

The question raised in this case is whether maize-wet bran (chhilka) is part of entry 4 in Schedule B to the Haryana Value Added Tax Act, 2003 ('the Act') and hence exempt from the levy of tax or not. The querist has also mentioned that maize is tax free and that maize bran, which is used as animal feed by Military Dairy Farm and other dairy farmers, should, as cattle feed, fall within entry 4 in Schedule B.

2. Entry 4 in Schedule B to the Act reads, as under –

“4. Animal feed, that is to say, aquatic feed, poultry feed and cattle feed including supplements, concentrates and additives to these feeds, husk of pulses and de-oiled cakes (including de-oiled rice bran)”;

It is seen from this entry that maize-wet bran, as it is used by Military Dairy Farm and other dairy farms as a cattle feed, should fall within the entry. But looking into Schedule C to the Act, we find that entry 39 therein, which reads 'Husk and bran of cereals except wheat bran', also covers maize bran as maize is a cereal. Entry 39 in Schedule C is a special entry containing specifically husk and bran of cereals while entry 4 in Schedule B is a general entry containing all types of animal feed which will include a large variety of items normally fed to animals. In law a general provision yields to a special provision (See [1974] 34 STC 153 (Guj.) Shree Ram Industries v. State of Gujarat; [1991] 80 STC 167 [Mad.] Bimetal Bearings Ltd. v. State of Tamil Nadu; (1999) 115 STC 358 Gobind Sugar Mills Ltd. v. State of Bihar). It is also noteworthy to observe that entry 4 in Schedule C while makes mention of 'husk of pulses', it is silent about 'husk / bran of

cereals'. Had the intention been to include the husk of cereals also in the entry, it would have been mentioned therein. The omission means, it is not intended to be included. It may also be further noted that husk / bran of cereals is not the only exception which appears in Schedule C though also covered under entry 4 in schedule B. Entry 28 in Schedule C includes oilcake which it cannot be disputed is cattle feed yet as this forms part of entry 28 in Schedule C, this is not tax free. It may further be mentioned that Note 4 to Schedule C to the Act states that goods of the description contained in this Schedule shall be deemed to have been excluded from

- 2 -

schedule B. For this reason also, maize bran falling in entry 39 in Schedule C should be deemed to have been excluded from entry 4 in schedule B. On the basis of the reasons stated above, it will be quite correct to conclude that as maize bran (as bran of cereals) falls specifically in entry 39 in Schedule C, it is not tax free and will attract tax @4%. It will not matter if the bran is wet or dry or it has a short life as mentioned by the querist. Similarly, the fact that maize is tax free is also of no consequence to determine the taxability of maize bran if it falls within a taxing entry.

(L.S.M.SALINS)

Chandigarh
Dated: 30.3.2006

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