

**ISSUED VIDE MEMO NO. 2007-09/ST-1, Dated 7.7.2006**

**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: M/s Saraswati Industrial Syndicate Ltd., Yamuna Nagar

The querist is a dealer engaged in the manufacture of machinery for sugar plants and related items. He purchases cars, computers and its accessories for purposes other than designing and production, fax machines, telephones equipments, calculators, drinking water coolers, air conditioners, fans and items of furniture for office use. He capitalizes these purchases. His query is whether these are capital goods within the meaning of clause (g) of section 2 of the Haryana Value Added Tax Act, 2003 (the Act) or not and, if not, could he adjust tax paid on the purchases of these items when he sells them in running condition after use, as their sale proceeds are part of his turnover under the Act.

The matter has been examined. Section 2(g) defines 'capital goods', as under -

“(g) “capital goods” means plant, machinery, dies, tools and equipment purchased for use in the State in manufacture or processing of goods for sale or in the telecommunication network or in mining or in the generation or distribution of electricity or other form of power provided such purchase is capitalized.”

It is seen from the description of the items in question and the purpose for which these are purchased that none of them answers the description of 'plant machinery, dies, tools and equipment' in relation to the business of the querist of manufacturing of machinery for sugar plant and related items. Therefore, the items in question are not capital goods.

Coming to the second query, it is seen that 'tax invoice' is sufficient proof of the tax paid on goods in respect of which input tax is claimed {see section 8(2)}. "Tax invoice" is defined, vide section 2(zl), as under -

“(zl) “tax invoice” means an invoice required to be issued according to the provisions of sub-section (2) of section 28 by a VAT dealer for sale of taxable goods to another VAT dealer for resale by him or for use

by him in manufacture or processing of goods for sale and which entitles him to claim input tax in accordance with the provisions of section 8.

It is seen from the above definition that 'tax invoice' is issued in respect of sale of taxable goods made to a VAT dealer for resale by him or for use by him in manufacture or processing of goods for sale. In the present case the items in question are admittedly neither for re-sale by querist nor for use by him in manufacture or processing of goods for sale. These are for use by him in activities indirectly related to his business and for such purposes tax invoice is not issued. Therefore, though the sale proceeds of goods in question after their use will make part of the turnover of the querist as per the definition of dealer vide section 2(n), input tax in respect of such goods will not be admissible as these will not be supported by a tax invoice. The querist will have to pay tax on their sale when these are sold in running condition or otherwise, after their use without getting adjustment of the tax paid by him at the time of their purchase.

Chandigarh  
Dated 4.7.2006

(L.S.M.SALINS)  
Financial Commissioner & Principal Secretary  
to Govt. Haryana, Excise & Taxation Department