

From

Excise & Taxation Commissioner,
Haryana, Panchkula.

To

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

Memo No. 8114 /ST-1.
Panchkula, dated the 9-6-2010

**Subject :- Circulation of Clarification-M/s Shekhar Brothers, Plot No. 58, Sector-6,
Faridabad TIN No. 06791200623.**

MEMORANDUM

A copy of clarification order issued by Government under section 56(3) of Haryana Value Added Tax Act, 2003 sought by M/s Shekhar Brothers, Plot No. 58, Sector-6, Faridabad TIN No. 06791200623 is sent herewith for information and necessary action by all the concerned

Ans 9/6/10
Superintendent (Sales Tax)

for Excise & Taxation Commissioner, Haryana.

Endst. No. 8115 /ST-1, Panchkula, dated the 9-6-2010

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

- Regd. to be read*
1. Sh. Shashank Shekhar, Partner -M/s Shekhar Brothers, Plot No. 58, Sector-6, 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, Faridabad, 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.

Ans 9/6/10
Superintendent (Sales Tax)

for Excise & Taxation Commissioner, Haryana

Endst. No. 8116 /ST-1, Panchkula, dated the 9-6-2010

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 JETCs
4. Jt. Director (L)-I and II
5. DETC(ST)
6. CAO
7. ETO(C/Excise)
8. AO-I, II, III
9. DA-I and II
10. DDA-I & II
11. Superintendent (C) for sending E-mail to all the DETC(ST) and uploading on website.
12. ST-II only (For adding in Annual Sales Tax Circular, 2009).

Ans 9/6/10
Superintendent (Sales Tax)

for Excise & Taxation Commissioner, Haryana.

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

Querist: M/s Shekhar Brothers.

M/s Shekhar Brothers, Plot No.58, Sector-6, Faridabad is a dealer registered under Haryana VAT Act holding TIN No. 06791200623 and has applied for clarification u/s 56(3) of the Haryana VAT Act as to the rate of VAT applicable on the tool bags. The applicant querist is manufacturer of hand tools and supplies tool kit assembly comprising of wheel wrench, spanners, screw drivers etc. packed in a tool bag to car manufacturers. In the statement of relevant facts having a bearing on the clarification sought by the applicant it has been argued that hand tools are chargeable to VAT @4% (5% w.e.f.15.2.2010) being covered under Entry 43(A)(e) of Schedule 'C' appended to the Act. Further, in the statement containing the applicants interpretation of law and facts in respect of the clarification sought the applicant has explained that since he is manufacturer of hand tools, and the bag is merely a packing to contain the tools, the tool kit/tool bag should be chargeable to VAT @4% (5% w.e.f. 15.2.2010) as the same are covered under Entry 43(A)(e) of Schedule 'C' viz hand tools etc.

Further, the applicant has relied on judgment delivered by the Patna High Court in case of **Tata Engineering and Locomotive Company Ltd. Vs. Union of India 1994(72) E.K.T. 525 (Pat.)** wherein the court has held that tool kits supplied by assesses with motor vehicle chassis manufactured by them on request of the customers are not inputs used in or in relation to manufacturer of final products but are tools falling under the exclusion category. Judgment in this case has been delivered while adjudicating on the issue as to admissibility of modvat credit and has no bearing on the issue in question.

The matter has been examined. Entry 43(A) of Schedule 'C' appended to the Haryana VAT Act provides for levy of VAT on industrial tools viz power tools, measuring tools, hydraulic tool, pneumatic tools and hand tools @ 4% (5% w.e.f.15.2.2010). However, from the entry itself it is clear that the items covered under this entry are industrial tools which have their application in industrial processes whereas the hand tools manufactured and sold by the applicant querist are for use of car owners for various processes involved in day to day use of the car viz changeover of wheels etc. In view of facts and law position explained above tool kits/tool bags manufactured and sold by the querist are not covered under Entry

43(A)(e) of Schedule 'C' appended to the Haryana VAT Act, are unclassified item, and hence attract VAT @12.5%.

Matter is clarified accordingly.



(RAMENDRA JAKHU)

Chandigarh
Dated:

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