

Read : Application dt.17.2.2011 from M/s Manojkumar Puranmal Agrawal having TIN-27480192229V.

Heard : Shri Deepak Bapat, Advocate attended the hearing on behalf of the applicant.

### PROCEEDINGS

(under section 56(1)(e) of Maharashtra Value Added Tax Act, 2002)

No.DDQ-11-2011/Adm-3/8/B- 8

Mumbai, dt. 20/07/2013

An application is received from M/s. Manojkumar Puranmal Agrawal, having address at Light Bazar, Navapur, Tal. Navapur, Dist. Nandurbar-425418 requesting determination of the rate of tax on the product 'Mahua Flower' sold through invoice no.121 dt.05.04.2010.

#### 02. FACTS & CONTENTION

The applicant deals in 'Mahua flowers'. It has been informed by the applicant that whereas his vendor, namely, Maharashtra Rajya Sahakari Adivasi Vikas Mahamandal Maryadit, Nasik (MRSVMM) has collected VAT @ 12.5% from him, he collects VAT @ 5% on the sales of impugned flowers under the belief that the said flowers are covered by the schedule entry no.44 in schedule 'C' appended to the MVAT Act. The applicant was requested through letter dt.31.10.2012 to furnish information on certain points. In response to the same, the applicant informed thus :

- a. Mahua Flowers are sold in dry condition and no processing is done before sale.
- b. The product is used as cattle feed and also in the kitchen of tribals residing nearby Navapur town, as a basic material for preparation of a drink.
- c. It is partially controlled by the State Excise Department and the commodity can be dealt in on permit obtained from the State Excise Department.
- d. It has to be purchased from the MRSVMM, Nasik or Gadchiroli, as per the permit.

The applicant also submitted affidavits of four customers living nearby Navapur town as evidence for its use. These affidavits state that the dried Mahua Flowers are purchased from the applicant for use in daily cooking, making drinks and as cattle feed.

#### 03. HEARING

The case was taken up for hearing on dt.12.02.2013. Shri Deepak Bapat, Advocate, attended on behalf of the applicant. The product is referred to in the bill as 'महुफुल' in the bill. It was contended that the product is a dry flower covered by the schedule entry C-44, liable to tax @5% during the period 01.04.2010 to 30.04.2010. It was stated that the reason for preferring the application was the charging of VAT @12.5% on the product by MRSVMM, Nasik.

Since it was informed that the flowers are sold in dry condition with no processing before sale, it was queried as to from where were the goods procured. To this, it was stated that the applicant is a reseller and that the said item is purchased from MRSVMM. It was informed that the product was partially controlled by the State Excise Department which issues permit for

transportation of the said item. Since the sample of the product was not submitted, the applicant was asked to submit a sample of the mahua flower as well as the dried mahua flower to which it was replied that the same would be furnished within a week. A written statement alongwith samples of the 'Mahua flowers' in natural form and in 'dry state', states thus :

- a. The wet flowers which have fallen from the tree contain the element of water. They are collected in a basket and are spread on the open land beneath the sunlight for evaporation of the water content in it. They are kept in the sunlight for about 24 to 36 hours for drying.
- b. When they are fully dried, they can be stored in the godown for about six months and the quality does not deteriorate.
- c. If the water content in the flowers is not fully evaporated in the drying process, their condition and the quality for use as cattle feed or for use in the kitchen is most likely to deteriorate. Hence, for bringing them upto the condition of proper use, their drying in the sunlight has to be properly adhered to.

#### 04. OBSERVATIONS

I have gone through the facts of the case. The product in respect of which a determination is sought is referred to as 'Mahua flower' in the bill. The claim of the applicant is in respect of the schedule entry C-44 of the Maharashtra Value Added Tax Act,2002(MVAT Act). The bill presented for determination being of dt.05.04.2010, the entry during this period read thus -

*Herbs, Katha (catechu), gambiar, bark, dry plant, dry root, commonly known as jari booti and dry flower*

It is contended that the impugned flowers are in dry condition and are therefore covered by the words 'dry flower' used for the purposes of the aforementioned schedule entry. A perusal of the entry reveals that the words 'dry flower' are added in the entry at its end. The entry has not associated the words 'jari booti' with the words 'dry flower'. The impugned products being dry flowers, I find no fault in the claim of the applicant as regards the applicability of the entry C-44 to the impugned products.

05. In view of the above, I pass an order as follows :

#### ORDER

(under section 56(1)(e) of the MVAT Act, 2002)

No.DDQ-11-2011/Adm-3/8/B- 8

Mumbai, dt. 20/07/2013

The product 'Mahua Flower ' which is informed to be a dried mahua flower sold through invoice No.121, dt.05.04.2010 would be covered by the entry at sr. no.44 in the Schedule 'C' appended to the MVAT Act, 2002, thereby taxable @ 5%.

  
(DR. NITIN KAREER)  
COMMISSIONER OF SALES TAX,  
MAHARASHTRA STATE, MUMBAI.