

Read : Application dt.15.07.2010 by M/s. Dhujans Engineering Corporation.  
Heard : Sh. P. V. Surte, Advocate.

## PROCEEDINGS

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

No.DDQ-11-2010/Adm-3/32/B-3

Mumbai, dt. 14/08/2015

M/s. Dhujans Engineering Corporation, having TIN 27860720961V and situated at D-41, MIDC, Satpur, Nashik, request determination of the rate of tax on "Coil Nails" sold under invoice no.0165 dt.14.02.2010.

### 02. FACTS AND CONTENTION

The application states thus -

"The applicant purchases steel wire, cuts it into different sizes and produces nails. The nails so produced are sold. The applicant has been charging tax at the rate of 4% on the ground that the goods sold by him are covered by Entry 107(10) of Schedule C appended to the MVAT Act, 2002. Though the said entry does not specifically refer to nails, the goods manufactured fall under Heading 7317 of Chapter 73 of the Central Excise Tariff Act, 1985 which covers the goods specified in entry 107(10) of Schedule C of the MVAT Act, 2002. The application is filed only because there is no mention of nails in entry 107(10) of schedule C. The applicant is aware of the two Trade Circulars No.21T of 2005 dated 22nd July, 2005 and No.36T of 2005 dated 16-11-2005, which have clarified the position. He has been following the same as well. He has been advised to have a statutory determination under section 56 of the MVAT Act, 2002, and hence the present application. There is no printed literature with regard to nails. Process of manufacture is as under:-

*Steel wire is purchased. It is fed to a machine which cuts the wire into requisite size of the nails. The nails so manufactured are fed to another machine where they are polished and packed into coils."*

### 03. HEARING

Sh. P. V. Surte, Advocate attended and submitted that the product for determination is a "Coil Nail". It is contended that the product is covered by the entry C-107(1) under the word 'fasteners' as used in the said entry. It is submitted that if it is decided to the contrary then prospective effect be granted. The applicant has nothing to add than what is said in the application.

### 04. OBSERVATION

I have gone through the facts of the case. The product for determination is a 'coil nail'. It is contended that the impugned product is covered by the schedule entry C-107(10) of the Maharashtra Value Added Tax Act, 2002 (MVAT Act,2002). The said entry reads thus -

*Screws, nuts, bolts, fasteners, coach screws, screw hooks, revets, cotters, cotter pins, washers including spring washers;*

It is contended that the impugned product is covered by the word 'fasteners' as appearing in the above schedule entry. The applicant has invited attention to the Trade Circular No.36 T of 2005 dt.16.11.2005 issued by the Department. It is clarified in the said Circular thus -

*"2. The entry 107(10) contained in Schedule C appended to the Maharashtra Value Added Tax Act, 2002, reads as follows\_*

*"C-107(10) Screws, nuts, bolts, fasteners, coach screws, screw hooks, revets, cotters, cotter pins, washers including spring washers"*



3. Heading 7317 contained in Chapter 73 of the Central Excise Tariff Act, 1985 reads as follows\_\_  
"7317 Nails, tacks, drawing pins, corrugated nails, staples (other than those of heading 8305) and similar articles, of iron and steel, whether or not with heads of other material, but excluding such articles with heads of copper"

4. Thus, fasteners are covered by Central Excise Tariff heading 7317. Accordingly, it is clarified that, the goods as above covered by heading 7317 of the Central Excise Tariff Act, 1985, will be fasteners and will be covered by the scope of the entry C-107(10). The same clarification will continue to apply even if the nails, tacks etc. are prepared from a metal other than iron and steel."

Thus, it is seen that nails have been clarified to be 'fasteners' as appearing in the above entry. I have referred to the meaning of the word 'fasteners' and it is seen thus -

*A fastener is a hardware device that mechanically joins or affixes two or more objects together. Fasteners can also be used to close a container such as a bag, a box, or an envelope; or they may involve keeping together the sides of an opening of flexible material, attaching a lid to a container, etc. There are also special-purpose closing devices, e.g. a bread clip. Fasteners used in these manners are often temporary, in that they may be fastened and unfastened repeatedly...(WIKIPEDIA)*

The Wikipedia further mentions a 'Nail' amongst the types of fasteners. In the article on 'nails' on the Wikipedia, it mentions nails as 'Nails (fasteners)'. Coil nail is mentioned as one of the types of 'nails' and is described as 'nails designed for use in a pneumatic nail gun assembled in coils'. The Encyclopedia Britannica describes a 'fastener' thus -

*"fasteners, In construction, connectors between structural members. Bolted connections are used when it is necessary to fasten two elements tightly together, especially to resist shear and bending, as in column and beam connections. Threaded metal bolts are always used in conjunction with nuts. Another threaded fastener is the screw, which has countless applications, especially for wood construction. The wood screw carves a mating thread in the wood, ensuring a tight fit. Pins are used to keep two or more elements in alignment; since the pin is not threaded, it allows for rotational movement, as in machinery parts. Riveted connections, which resist shearing forces, were in wide use for steel construction before being replaced by welding. The rivet, visibly prominent on older steel bridges, is a metal pin fastener with one end flattened into a head by hammering it through a metal gusset plate. The common nail, less resistant to shear or pull-out forces, is useful for cabinet and finishing work, where stresses are minimal."*

The Britannica describes a 'nail' as 'Nails are most commonly used to fasten pieces of wood together, but they are also used with plastic, drywall, masonry, and concrete.'. Thus, it can be seen that a 'nail' is commonly regarded as a 'fastener'. In view thereof, the impugned 'coil nail' would be covered by the word 'fasteners' as appearing in the schedule entry C-107(10) of the MVAT Act,2002 and thereby would be liable to tax @4% upto 31.03.2010 and @5% from 01.04.2010 onwards.

05. In the circumstances, it is determined thus -

### **ORDER**

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

No.DDQ-11-2010/Adm-3/32/B- 3

Mumbai, dt. 14/08/2015

"Coil Nails" are covered by the word 'fasteners' as appearing in the schedule entry C-107(10) of the MVAT Act,2002 and thereby would be liable to tax @4% upto 31.03.2010 and @5% from 01.04.2010 onwards.

  
(RAJIV JALOTA)

COMMISSIONER OF SALES TAX,  
MAHARASHTRA STATE, MUMBAI