

Read: Application dt.07.05.2009 by M/s. Eco Foam Products and Services.  
Heard: Smt. Sujata Ranganekar, Chartered Accountant and Shri Thomas, Proprietor.

## PROCEEDINGS

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

No.DDQ-11/2009/Adm-3/24/B - 3

Mumbai, dt. 17/02/2016

M/s.Eco Foam Products and Services situated at 177/1412 Motilal Nagar 1, Goregaon (W), Mumbai-400042, holder of VAT TIN-27020334878V has filed an application under section-56 of the Maharashtra Value Added Tax Act, 2002 (the MVAT Act, 2002) requesting for classification and determination of rate of tax on "Rubberised Coir Pad" sales of which are evidenced by Invoice No.Coir/189 dt.24.11.2015.

### 02. FACTS OF THE CASE

The application is reproduced verbatim thus :

"We are importers and resellers of rubberized coir pads in different sizes. The said rubberized coir pads is used as major ingredient in manufacturing coir mattresses. The coir pads sold by us can not be directly used as mattresses but they have to be process further in order to convert them in to a ready to use mattresses. Such processes include cutting the rubberised coir of a given length and width as per the specified measurements, fixing the foam on the surface of the rubberised coir pads to get cushioning effect, covering them with cloth, stitching the edges etc. Therefore, the pieces of rubberized coir pads sold by us are not usable as mattresses by themselves but are usable as raw material for such mattresses.

The main raw material used for making rubberized coir pads is the fiber extracted from the coconut shell and spraying liquid rubber called latex thereon to make it stick together. We can manufacture sheets of rubberised coir pads of different sizes and thickness as also at different hardness called density. The said product is not excisable.

In our opinion, the above product is covered by schedule entry C-24 which reads as follows:-

"Coir and coir products excluding coir mattresses"

We are also enclosing tax invoice No.948 dated 18/04/2009 evidencing sale of rubberized coir pad of size 75\*60\*3". In abundant precaution, we have collected VAT at 12.5% although we are the firm opinion that the product sold by us is covered by the above schedule entry and liable to VAT at 4%."

The applicant was queried through letters dt.05.08.2009 and dt.29.03.2010 about the manufacturing process and literature of the product, alongwith other details. In response, by letter dt.01.06.2010, the applicant furnished a write-up on the process of manufacturing of rubberised coir and also the process of making coir mattress alongwith photographs showing various stages of manufacturing of rubberised coir. It was informed that there is no marketing or advertising literature of the said product with the applicant. The applicant wished to explain the process as well as function, utility of the product and its desired classification in the schedule entry under the MVAT Act, 2002. The write-up is reproduced verbatim thus :

#### "Manufacturing process of Rubberised Coir

*Fibrous Coconut husk is the basic raw material for Rubberized Coir Pads. Coir Fiber is manufactured from matured coconut husk that is soaked, crushed, combed and dried. The dried and cleaned fiber passes through the twisting machine and the coiled fiber is framed. The same twisted fiber is bundled into required weight.*

*The coiled fiber is unwind and spread uniformly in to a layer when it passes through a machine and in the next stage the rubber latex sprayed on the fiber to stick the fiber together. At the final stage the rubberized fiber is put through a roller to make the loose fiber in to a sheet is called rubberized coir pad. The Rubberized coir pad is used as one of the main raw material for manufacturing Coir mattress.*



### Process for making coir mattress

The main raw material for making coir foam mattress is Rubberised coir pads, PU Foam, Foam quilt etc. The Rubberized Coir Pad is covered with PU foam to get enough softness for sleeping comfort and is then covered with Foam quilt and the finished product is called Rubberized Coir Foam Mattress.

There is no need of any publicity or advertisement for selling the rubberized coir pads as its used for making mattress and the publicity is required only for selling mattress.

Indian coir industry is an important cottage industry contributing significantly to the economy of the major coconut growing States and Union Territories.

To promote coir products and coir Industry Govt of India is excluded Coir products and Coir Mattress from Excise duty category."

### 03. HEARING

The case was taken up for hearing on various dates but for unavoidable circumstances, the hearings were never held. The hearing was finally held on dt.09.12.2015. Smt. Sujata Ranganekar, Chartered Accountant and Shri Thomas, Proprietor attended and submitted thus :

- The impugned product is "Rubberised Coir" as mentioned in the bill of dt.18.04.2009.
- The company is reselling the 'Coir Pads Bare Blocks' purchased from Tamil Nadu as 'Rubberised Coir Pad'.
- The manufacturing process is explained thus : The natural coconut husk is removed and latex i.e. rubber solution is spread which helps the bonding of the coir to each other. This is done in layers and the layers are collected and pressed together. After pressing, they have to be vulcanized through the vulcanizer and then they are cut as per requirement of size.
- It is claimed that the product is covered by the schedule entry C-24 which reads as "Coir and coir products excluding coir mattresses".
- Since the bill submitted is of dt.18.04.2009, it was enquired whether the said period is assessed or otherwise. In reply, the applicant submitted a sale bill dt.24.11.2015 describing the product as "Rubb. Coir Pad".

### 04. OBSERVATIONS

I have gone through the facts of the case. I have seen the sample of the product. The manufacturing process has been reproduced above. The impugned product comprises sheets of coir pressed together. The applicant has informed that the coiled fiber is unwind and spread uniformly into a layer when it passes through a machine and in the next stage the rubber latex is sprayed on the fiber to stick the fiber together. At the final stage, the rubberized fiber is put through a roller to make the loose fiber into a sheet which is called the rubberized coir pad.

It is the claim of the applicant that the impugned product is covered by the schedule entry C-24 of the Maharashtra Value Added Tax Act, 2002 (MVAT Act,2002) which reads as "Coir and coir products excluding coir mattresses". It can be seen that the aforesaid entry excludes coir mattresses. Hence, it is claimed by the applicant that the impugned product is not a coir mattress. The bill submitted along with the application shows tax collection @12.5% whereas the bill dt.24.11.2015 shows tax collection @5%.

That the product is made of coir is very obvious. The schedule entry covers coir and coir products. The impugned product is not coir but a product made from coir. The issue arises further as we see that the entry excludes "coir mattresses". The impugned products are sold in

pads as of the size of a mattress. Hence, the question arises as to whether the product sold in sheets in sizes as that of a mattress could be called a coir mattress. It is necessary to ascertain the same as the schedule entry is very specific in its import such that it covers "Coir and coir products" but excludes "coir mattresses". During hearing the attention of the applicant was invited to a determination order No. DDQ 11/2008/Adm-3/22/B-4, dt.22.12.09 in the case of M/s. Centuary Fibre Plates Pvt. Ltd. wherein the product involved was 'coir blocks'. It was held therein that the same was not a coir mattress and therefore stood covered by the impugned schedule entry C-24. The applicant submitted that the impugned product is the same as the one in the said determination order. The applicant therein was a manufacturer of coir blocks as well as rubberised coir mattresses. The manufacturing process of both the products was given thus :

- a. "We are using rope (Coconut Fibre) as raw material. We are untwisting rope & separating it as a fibre.
- b. We are using natural rubber (latex) with mixing of 9 to 10 several types of chemicals. It helps to bonding the coir to each other & for creating a flexibility (spring action). This is done in layers. The layers are collected & pressed as per the requirement.
- c. After pressing the same, we vulcanise the same in "vulcanizer".
- d. After vulcanizing, we cut the block as per requirement.
- e. When blocks are ready, they are sold in the market. Some shop keepers are buying only Coir Bare Blocks. Others are buying ready made mattresses which are ready for sleep.
- f. **Coir Block** : In market, shopkeepers are buying block for cushioning in vehicle, hospital & industrial packing use. Some people are making local mattresses by using foam, quilt etc.
- g. **Covered Mattresses** : We are using bare block with side walling, layer of P.U. Foam or quilt cover & selling in market "Ready Made" Mattresses under Head "Centuary". "

As in the present case, the issue in the aforesaid determination order, was as to whether the 'Coir Blocks' fall under the expression 'coir mattresses' which if the case, would exclude the same from the scope of schedule entry C-24. The approach, therefore, is to see the difference between the 'coir bare blocks' and 'coir mattresses'. The applicant therein explained the difference thus :

"In support of their contention that the product is not a 'mattress", the applicant produced samples of the 'coir block' and a 'coir mattress'. The samples of a mini bare coir block and a mini mattress brought before me reveals the following :

- i. The piece of bare coir block is rough to touch whereas the quilted coir mattress is soft to touch.
- ii. The piece of bare coir block appears to be cut from a bigger block. The quilted coir mattress is a finished item obtained by the following further processes :
  1. All the four sides of the bare blocks are secured by hessian cloth by using adhesive.
  2. On the upperside so secured, 'PU Foam' of higher density is stuck with adhesive.
  3. The whole piece so made is put into a quilt made up of lower density PU Foam and upholstery cloth."

As in the present case, it was contended therein that it would not be possible to sleep on a bare block. I would reproduce hereinbelow the observations in the said determination order while deciding as to whether the uncovered bare block of the size of a standard/non-standard mattress which can be put to no other use than a covered standard/non-standard size mattress could make the product a mattress :

“.....Before deciding the same, I shall refer to a judgement of the Excise Tribunal in the case of Commissioner of Central Excise, Patna V. SSF Industries Ltd. (208-009-STR-405-TRIB).

The issue involved was whether rubberized coir mattresses (uncovered), in view of size as well as manufacturing process involved, were eligible for exemption which was granted to products of coir industry. The exemption specifically excluded rubberized coir mattresses. In the Classification under Central Excise, during the material time, mattresses of cellular rubber or plastics, whether or not covered were classified under sub-heading 9404.21. The residual subheading 9404.29 covered mattresses of other materials. It was argued that since the expression "whether or not covered" has not been used under the residual subheading 9404.29, the same would cover only rubberized coir mattresses and not un-covered coir mattresses. The argument was dismissed to observe that "In our view, even in the absence of the phrase "whether or not covered", mattresses of other materials would include both the covered mattresses as well as uncovered mattresses particularly in the absence of any expression excluding uncovered mattresses from the scope of the subheading. We also find that the relevant explanatory note for the heading 94.04 does not exclude uncovered mattresses from the scope of the heading. On the other hand, mattress supports are included under the scope of this heading." On the basis of verification, it was established, by the field officials therein, that the products were uncovered mattresses and not sheets going by the size of the same. It was also observed therein that – "All that is required is a stitch of cloth covering on the said goods to make them covered mattresses."

Thus, it seems that on a factual verification of the case, the Excise Tribunal came to the conclusion that the difference between rubberized coir sheets and the rubberized coir mattresses is just a stitch of cloth. However, as I see in the case before me and what seems material to me as to the fact that a 'coir bare block' cannot be used as 'mattresses'. The difference is just not of a 'stitch of cloth'- the bare block of coir is an intermediate product which is first covered by foam of varying thickness and all the sides are stitched with quality upholstery cloth. The product therefore does not seem to be mattress. The difference between a coir bare block and a mattress is perceptible and visible to the naked eye. The impugned product is sold to dealers who further convert it into a 'coir mattress'. The coir block cannot be put to the same use as a coir mattress -. Further delving into the matter brings me to the following definition and meaning of a mattress.

The "core" of a typical mattress is the innerspring unit, a series of wire coils that are attached to one another with additional wire. The upholstery layers are affixed to the innerspring: the first, called the insulator, is fitted directly onto the innerspring and prevents the next layer, the cushioning, from molding to the coils. While the insulator is fairly standard, the number of cushioning layers can vary widely in number, ranging from two to eight layers and from 1/4 inch to 2 inches (.63 to 5 centimeters) in thickness. Moving outward, the next component is the flanges, connecting panels that are attached to the mattress's quilted cover with large, round staples called hogs rings. The top, bottom, and side panels of the mattress are stitched together with border tape.

#### **Raw Materials**

Mattresses are presently made of many materials, both natural and synthetic. The innerspring, helical, and boxspring components are made from wire; the boxspring wire is usually of a heavier gauge than that used in the innerspring. The insulator consists of semi-rigid netting or wire mesh, and the cushioning layers can comprise a number of different materials including natural fiber, polyurethane foam, and polyester. The flanges are made of fabric, and the hogs rings of metal. Top, bottom, and side panels consist of a durable fabric cover quilted over a backing of foam or fiber, and the binding tape that holds the ticking together is made of heavy-duty, fibrous, synthetic material. The underlying boxspring may consist of either a wooden frame with slats or of metal coils similar to those used in the mattress itself. The boxspring may be upholstered, but, even if it is not, it always receives a fabric covering.

#### **Components of an innerspring mattress**

A common innerspring mattress consists of three components: the spring core, the foundation, and the upholstery layers.

#### **Upholstery layers**

Upholstery layers cover the mattress and provide cushioning and comfort. Some manufacturers call the mattress core the "support layer" and the upholstery layer the "comfort layer." The upholstery layer consists of three parts: the insulator, the middle upholstery, and the quilt.

The insulator separates the mattress core from the middle upholstery. It is usually made of fiber or mesh and is intended to keep the middle upholstery in place.

The middle upholstery comprises all the material between the insulator and the quilt. It is usually made from materials which are intended to provide comfort to the sleeper, including regular foam,

viscoelastic foam, felt, polyester fibers, cotton fibers, convoluted ("egg-crate") foam, and non-woven fiber pads.

The quilt is the top layer of the mattress. Made of light foam or fibers stitched to the underside of the ticking, it provides a soft surface texture to the mattress and can be found in varying degrees of firmness. The protective fabric cover which encases the mattress is called ticking. It is usually made to match the foundation and comes in a wide variety of colors and styles. Most ticking is made of synthetic fibers like polyester, or acrylic; or of natural materials such as latex, cotton, silk, and wool.

Thus, a mattress consists of three components : the spring core, the foundation, and the upholstery layers. The bare block in the present case does not have the layer of 'PU Foam' and the top upholstery layer which gives a soft surface texture to the mattress. The present product can in no sense of the term be regarded as a mattress which is commonly perceived as a 'mattress'. It is true that the coir block put up for determination is of the size of a standard/non-standard mattress. However, merely being of the size of a standard/non-standard mattress would not be sufficient to term the bare uncovered coir block as a 'mattress'. Hence, I am convinced that the product put up for determination in the present proceedings is not a 'coir mattress' and thereby would not be excluded from the scope of the schedule entry C-24. I have already discussed that the impugned product is a 'coir product' and hence, the 'coir bare block' would be covered by the scope of the schedule entry C-24 of the MVAT Act,2002.

I have also come across an Excise Tribunal judgement which corroborates the view expressed by me. In the case of Hosur Coir Foams Pvt. Ltd. V. CCE, Chennai (2006-(198)-ELT -0145 -CESAT) it was held that 'rubberised coir pad' cannot be the same as 'rubberised coir mattress'. The Tribunal accepted the contention of the applicant that there exists a difference between a 'rubberised coir pad' and a 'rubberised coir mattress', the difference being as follows :

The 'rubberised coir pad' is only an intermediate which could be converted into 'rubberised coir mattress' only through the following processes :-

- (a) The coir pads are covered with foam of varying thickness.
- (b) All the sides are stitched with quality upholstery cloth by High Precision Machines. The top surface i.e., the cloth is either plain or quilted, Quilting is done by imported machinery only.

It was also pointed out to the Tribunal that in the conversion of 'rubberised coir pad' to 'mattress', there is a value addition of about 20-80%. The thickness of the mattress is said to be higher by 20% than that of the pad. It is submitted that, only after the above processes, the product is accepted in the market as a mattress.

On the above facts, it was held by the Tribunal that the 'rubberised coir pad' cannot be the same as 'rubberised coir mattress'.

Hence, I am convinced that the product put up for determination in the present proceedings is not a 'coir mattress' and thereby would not be excluded from the scope of the schedule entry C-24."

Thus, it can be seen that the aforesaid determination order has held the coir blocks as not being coir mattresses in view of the same requiring further processes to convert them into a coir mattress. The impugned product, too, cannot be used as a mattress unless the activities such as covering with foam, cloth, stitching the edges etc. are done. The product being similar to the product in the aforesaid determination order, I take no different view than the view as in the said order. The impugned product is a coir product and cannot be called a coir mattress. Therefore, it is very well covered by the schedule entry C-24 which is for "Coir and coir products excluding coir mattresses".

Now, it is seen that the applicant has charged tax @12.5% on the impugned product and is later on charging tax @5%. Since the applicant has collected tax on the impugned product @12.5%, it is herewith determined that -

- The product is covered by the schedule entry C-24 of the MVAT Act,2002 and therefore, amenable to tax @4% till dt.31.03.2010 and @5% thereafter till date.

- Despite the product being covered by the schedule entry C-24 of the MVAT Act,2002, in view of the tax collection and payment @12.5%, the tax rate on the impugned product would be 12.5% for the period in which the applicant has collected and paid tax @12.5%.

05. In view of the deliberations, it is ordered thus :

**ORDER**

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

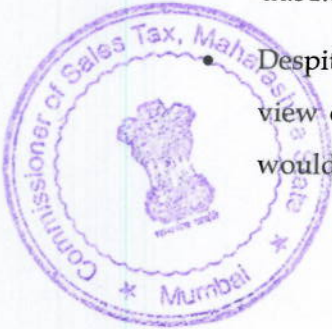
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Mumbai, dt. 17/02/2016

For reasons as discussed in the body of the order, it is herewith determined thus ;

- The product "Rubberised Coir Pad" is covered by the schedule entry C-24 of the Maharashtra Value Added Tax Act, 2002 and therefore, amenable to tax @4% till dt.31.03.2010 and @5% thereafter till date.

Despite the product being covered by the schedule entry C-24 of the MVAT Act,2002, in view of the tax collection and payment @12.5%, the tax rate on the impugned product would be 12.5% for the period in which the applicant has collected and paid tax @12.5%.



(RAJIV JALOTA)

COMMISSIONER OF SALES TAX,  
MAHARASHTRA STATE, MUMBAI