PROCEEDING OF ADVANCE RULING AUTHORITY UNDER SECTION 55 OF MVAT ACT, 2002 AND UNDER RULE 63 OF MVAT RULES, 2005.

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<thead>
<tr>
<th>SR. NO</th>
<th>PARTICULARS</th>
<th>DETAILS</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Name of applicant</td>
<td>M/s. Navneet Education Limited.</td>
</tr>
<tr>
<td>2</td>
<td>Address</td>
<td>Navneet Bhavan, Bhavani Shankar Road, Near Shardsahram Society, Dadar (West), Mumbai- 400028.</td>
</tr>
<tr>
<td>3</td>
<td>TIN</td>
<td>27580000211V</td>
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<td>4</td>
<td>Details of application</td>
<td>ARA No.174/ Dt. 24.10.2018</td>
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<td>5</td>
<td>Jurisdictional Assessing Authority</td>
<td>MUM-VAT-E-602 (LTU-1),Mumbai</td>
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<td>6</td>
<td>Heard</td>
<td>Mr. Nitin Shah (Adv.) and Mr. Ganesh Gala (M.D.)</td>
</tr>
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<td>7</td>
<td>E-mail</td>
<td><a href="mailto:Dilip.furia@Navneet.com">Dilip.furia@Navneet.com</a></td>
</tr>
<tr>
<td>8</td>
<td>Advance Ruling Authority</td>
<td>Shri. C.M. Kamble (Chairman), Shri V.V. Kulkarni, (Member), Shri A.A. Chahure (Member).</td>
</tr>
</tbody>
</table>

ORDER NO.ARA MUMBAI 174/2018-19/ Disp. Reg. No. 41 / DT. 03/05/2019

(Order under section 55(5) and 55(9) of MVAT ACT, 2002)

The applicant, M/s. Navneet Education Ltd. has applied under section 55 of MVAT ACT, 2002 for determination of the rate of tax on the Bhugol Vyavasaya- Standard VI, Ganit Vyavasaya – Standard VI, My English Workbook (Hindi Sanskaran) – Standard III, Vikas Paryavaran Shikshan (Margdarshan Nondvahi) – Standard VII, Vikas Karyanubhav – Standard II and Vikas Physical Education (Manual cum Journal) – Standard VIII. The dealer informed that these are similar types of books and submitted samples of these books.

2. Brief background of the present Application for Advance Ruling is as under:

1. The Applicant is a dealer registered under the provisions of the Maharashtra Value Added Tax Act, 2002 and the Central Sales Tax Act, 1956 (hereinafter referred as the 'MVAT Act' and 'CST Act', respectively) bearing TIN 27580000211V and 27580000211C respectively.

2. The Applicant is a listed company and an established publisher running the Publication of books for more than 30 years mainly in the field of educational and general books, maps, charts and manufacturer of paper stationery items like exercise books, drawing books, writing pads, etc. and also sells other stationery items.

3. By the present application, the Applicant is seeking an Advance Ruling with respect to the classification of some of its products as mentioned below, under the MVAT Act upto the period of 31 March 2015 ('period under consideration')
- Bhugol Vyavasaya - Standard VI;
- Ganit Vyavasaya - Standard VI;
- My English Workbook (Hindi Sanskaran)
- Standard III; Vikas Paryavaran Shikshan (Margdarshan, Nondhvahi)
- Standard VII; Vikas Karyanubhav - Standard II;
- Vikas Physical Education (Manual-cum-Journal) - Standard VIII;

(above products are collectively referred as 'products under consideration').

4. For the period from 01 April 2015 onwards, there was amendment in the schedule to MVAT Act, by which workbooks were specifically included in entry A-6(b) and there is no confusion in respect of the classification of the products under consideration for the period from 01 April 2015 onwards. Hence the Applicant is seeking the present Advance Ruling for the period prior to 01 April 2015.

3. In view of above, the questions are framed in logical manner as follows:

1] Whether the correct classification of the below mentioned products under Maharashtra Value Added Tax Act, 2002 for the period up to 31 March 2015 is under schedule entry A-6:
   Bhugol Vyavasaya - Standard VI;
   Ganit Vyavasaya - Standard VI;
   My English Workbook (Hindi Sanskaran) - Standard III;
   Vikas Paryavaran Shikshan (Margdarshan Nondhvahi) - Standard VII;
   Vikas Karyanubhav - Standard II;
   Vikas Physical Education (Manual-cum Journal) - Standard VIII.

2] If not, then what is the correct schedule entry for products under consideration.

3] The applicant, further, prays that alternatively, in case, the authority is of the view that above mentioned products are not covered under schedule entry A-6, then the advance ruling should be given prospective effect.
4. Submissions:

4.1 A] The applicant submitted the samples of all the products under consideration and explained that all the products under consideration are mostly filled with thought provoking questions for the students to answer. Most of them have brief free space wherein the student can fill the required thought process after reading the textual based chapters. Hence these products could be termed as workbooks or similar books. E.g. Ganit Vyavasaya is structured among various topics as per the syllabus. Every topic starts with brief summary and solved examples followed by unsolved problems and space to solve these unsolved problems. This makes it fairly evident that all the products under consideration are either workbook or similar book for students that gives information on a subject together with section to help them to revise what they have learned. Hence collectively these could be termed as 'Workbooks'.

B] The Applicant further explained the meaning of the term "Workbook" so that it would be made clear that the workbooks are also one type of book. The attention is invited to the meaning of the term Workbook:

**Oxford Advanced Dictionary:** a workbook is "a book for students that gives information on a subject together with exercises to help them to practice what they have learned". A workbook means, "a student's book or booklet containing problems with spaces for solving them";

**http://www.vocabulary.com/dictionary/workbook:** a workbook means, "A student's book or booklet containing problems with spaces for solving them"

It is submitted that "Workbooks" are used by the students as supplementary curriculum materials which suit the needs of students at all levels. They provide with ready and handy materials, for assessing the performance without any external aid. It is a clear summary of lessons/chapters from textbooks with key points to read, revise and reinforce concepts with wide-ranging questions for practice with brief space to write answers. "Workbooks" are basically books from which students can gather knowledge based on their syllabi and answer the questions that are asked after each lesson. The space to answer varies with the kind of questions asked which are generally expected to be in brief.

In view of the above explanation it is contended that the products under consideration are books and covered in the entry A-6

4.2 The applicant further submitted his contention in respect of the schedule entry covering his products under consideration (Schedule entry part) - The applicant has submitted that, he is of the view that the products under consideration are clearly the products falling in the schedule entry A-6. This entry is the basic entry that covers the books. The said entry is not restrictive but explanatory in nature. However, the words 'that is to say'
also appears in the entry. But these words 'that is to say' does not restrict the scope of entire entry as explained below. The relevant portion of the entry reads as under:

**Schedule Entry A-6:** "Books, that is to say, every volume or part or division of a volume including almanacs, panchangs, time tables for passenger transport services and periodicals, maps, charts, orreries and globes, but excluding annual reports, application forms, account books, balance sheets, calendars, diaries, catalogues, race cards, publications which mainly publicise goods, services and articles for commercial purposes and publications which contain space exceeding eight pages for writing."

It is submitted that this entry contains the inclusive part which explains certain goods which are also included within the ambit of the term book. It contains almanacs, panchangs, time tables for passenger transport services and periodicals, maps, charts, orreries and globes. Thereafter, the exclusion part of the entry follows to exclude annual reports, application forms, account books, balance sheets, calendars, diaries, catalogues, race cards, publications which mainly publicise goods, services and articles for commercial purposes and publications which contain space exceeding eight pages for writing.

The use of the words 'that is to say' is used in the restrictive sense in the main part of the entry and only restricts the products which are volume or part or division of volume. These words do not restrict the entry in its entirety. Hence the said entry covered all kinds of books unless mentioned in exclusion part or covered by other specific entry. Hence, it is apparent that the workbooks and similar products, which are under consideration by the present application, are not excluded by way of specific mention in the exclusion.

4.3 It is further submitted that all the publications which contain space exceeding eight pages for writing are also excluded from the above entry A-6. However, the workbooks (despite having space for writing) cannot be considered as publications which contain space exceeding eight pages for writing. It is submitted that what is meant by the said exclusion part is not given in the statute or the rules made there under. Further no clarification has been issued in this regard. Hence the said exclusion part has to be interpreted as per its literal meaning. The term 'space' has been defined in various dictionaries as follow:

- **Law of Lexicon:** "The term space is defined to be the regions sometimes with near vacuum conditions, surrounding all body in the universe".

- [http://www.oxforddictionaries.com/definition/english/space](http://www.oxforddictionaries.com/definition/english/space): **A continuous area or expanse which is free, available, or unoccupied:**

- [http://dictionary.cambridge.org/dictionary/english/space](http://dictionary.cambridge.org/dictionary/english/space): an empty area that is available to be used: OR the area around everything that exists, continuing in all directions

It is submitted that from the above, it is clear that the term space means the uninterrupted space. Thus the page when entirely can be used for writing then only it can be considered as the page available for writing and when such eight continuous pages are available for writing then only such books are excluded from the said entry A-6. However, in
the present case, none of the products under consideration contain the continuous space of more than eight complete pages for writing and hence the products under consideration do not fall in the exclusion part of the definition of the entry A-6.

It is submitted that the explanation made in the above point makes it clear that the workbooks or similar books are books and hence it is clear that the products under consideration are not covered by the exclusion part of the entry A-6.

**4.4 The applicant further stated that the term ‘Book’ has very wide meaning.**

A. It is submitted that Entry A-6 covers 'Books' which contains various kinds of books. And the term book has not been defined in the MVAT Act, rules made there under or in the schedule appended to the MVAT Act. Hence to understand the meaning of the term book, recourse has to be taken to the dictionary meaning of the term as well as its judicial interpretation.

B. The meaning of the term book has been given in the various dictionaries. The meaning given in some of the dictionaries are reproduced below for ready reference.

*The law of lexicon defines the term book as:* "In its ordinary sense a "book" signifies a collection of sheets of paper bound together in a manner which cannot be disturbed or altered except by tearing apart".

**Online Oxford Dictionary:** A written or printed work consisting of pages glued or sewn together along one side and bound in covers

**Chambers Dictionary:** Book is a collection of sheet of paper etc. bound together and made into a roll, either printed, written on or blank, a large scale literary composition; a division of a volume or composition

**Webster Dictionary:** Book is

- Any literary or scientific composition or treatise which is printed, distinguished by length and form from a magazine, tract etc.
- Any number of printed or written sheets when bound and sewed together along one edge in between protective covers.
- A volume of blank papers or printed blank forms intended for any kind of writing, as a memorandum, accounts or receipts.

**4.5 The applicant placed reliance on the judgement in case of KL Hi-Tech Secure Print Limited vs. CTO [1998] 110 STC 59 (AP).** It is submitted that the term 'book' was interpreted by the judiciary and it has been held that the book covers all type of books within its ambit. The issue in this judgement was, whether the lottery tickets, C Forms, Share Applications, Share Certificates sold in book form were eligible for the exemption available to all books.
The Hon'ble High Court observed that "all books" would include day book, account book, ledgers, journals and even blank sheets being together and they need not be necessarily books. The relevant extract is read as under:

"11. We have already referred to the observations of this Court in the above Venkatarama & Co. v. Additional Commercial Tax Officer (1973) 32 STC 263 and Govindaswamy Binding Works v. State of Andhra Pradesh (1972) 29 STC 219 cases. It is apt to refer to one of the observation of the learned Judges who have referred to the test of common parlance. According to the learned Judge the expression "all books" would include day book, account book, ledgers, journals and even blank sheets being together and they need not be necessarily books. The emphasis appears to be on the form of a book even as when blank sheets stuck together even though it does not contain any literary work and it exempts all kinds of books as understood in common parlance including account books, exercise note books and the kind. The learned Judge also took into account the difference in the language in G.O. Ms. No. 133 (Revenue), dated January 29, 1964 and the earlier notification, as the earlier notification gave exemption only to certain kinds of books while the G.O. Ms. No. 133 (Revenue), dated January 29, 1964 exempted all books irrespective of the contents. At this stage, it is necessary to refer to the findings of the respondents while making the provisional assessment for disallowing the exemption to the petitioners. According to him "these when supplied several of them stitched/stapled together cannot be identified as a book in as much as a book is a collection of subject papers in the form of papers/leaves constituting inseparable bunch of papers stitched/stapled together depending on each other. Each page of a book is numbered and are not independent of each other". In other words, what he says is that though they are stitched in the form of a book they are separable leaves. As already explained in the earlier paras, orders are placed on the petitioner to supply in book form, and accordingly the petitioner has to supply all the articles only in the book form. At a later stage, viz., at the consumer stage the fact that the leaves are separated and sold as lottery tickets, share certificates and share applications does not change the nature of the article in the hands of the petitioner.

It is further submitted that as explained above, the entry A-6 covers books and hence whatever covered in the inclusion or exclusion part, are books, only because of, the specific inclusion or exclusion of these products in the entry A-6. It is settled law that the specific exclusion otherwise means the inclusion and hence the products mentioned in inclusion or exclusion part of the above entry A-6 are species of books. If these products were not books, then there could be no need to exclude these products specifically from the entry A-6. The legislature intended to include all the books within the ambit of the above entry A-6 except the books specifically excluded from the entry or mentioned elsewhere in the schedule to the MVAT Act.
4.6 The applicant contended that, the work book and Exercise/Note book are not a similar type of products and differentiated the Work book and Exercise/Note books (as covered by entry C-32) as follows:

<table>
<thead>
<tr>
<th>S.NO.</th>
<th>Work Books</th>
<th>Exercise Books / Note Books</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Based on Syllabus / Text Books</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>2.</td>
<td>Prescribed by the Schools/ Educational to learn the subject in depth.</td>
<td>Not Applicable</td>
</tr>
<tr>
<td>3.</td>
<td>Meant for Particular Subject &amp; Standard and useful to learn particular subject.</td>
<td>Used by any student of any standard.</td>
</tr>
<tr>
<td>4.</td>
<td>Cannot be used by others like normal exercise book</td>
<td>Can be used by anyone other than student also</td>
</tr>
<tr>
<td>5.</td>
<td>Copyrighted - Written by learned authors. Authors get Royalty for the same</td>
<td>Normally cover designs are copyrighted. No Royalty is payable except for cover design as there are no contents in exercise book.</td>
</tr>
<tr>
<td>6.</td>
<td>Printed educational contents</td>
<td>Ruled / Plain / Squared / Double Line etc.</td>
</tr>
<tr>
<td>7.</td>
<td>Sold on basis of Subject / Std / Medium</td>
<td>Sold on basis of Size / Type / Quality</td>
</tr>
<tr>
<td>9.</td>
<td>Normally sold by Book Sellers</td>
<td>Sold at Book Shops, Stationery Shops as well as at other general stores</td>
</tr>
<tr>
<td>10.</td>
<td>It is an aid to teachers to bring standardization among all the students</td>
<td>No such benefit</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>---</td>
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<td></td>
</tr>
<tr>
<td><strong>in the class</strong></td>
<td>Change in syllabus does not affect inventory of exercise books</td>
<td></td>
</tr>
<tr>
<td><strong>11</strong></td>
<td>If there is change in syllabus the existing inventory containing books of old syllabus is inventory of exercise books to be scraped and cannot be used</td>
<td></td>
</tr>
<tr>
<td><strong>12</strong></td>
<td>Categorized as Publication Cannot be called Publication</td>
<td></td>
</tr>
</tbody>
</table>

In light of the above, it is contended that, the products under consideration are not exercise books getting covered under entry C-32.

**Further citing the similarity between Notebooks and exercise books, the applicant submitted** the meaning of Notebooks and Exercise books. Exercise books are essentially notebooks. The meaning of exercise book is as under:

**Exercise book:**

1. (Education) a notebook used by pupils and students

2. a booklet with blank pages for students to write schoolwork in (British English) ([http://www.thefreedictionary.com/exercise+book](http://www.thefreedictionary.com/exercise+book))

In the common parlance these books viz. exercise books and notebooks are treated as same. The manufacturers at one place term this book as exercise books and at the another place same book is termed as notebooks. Therefore, in most of the states there is no separate entry covering the notebooks and the same are treated as exercise books by the authorities and trade.

4.7 The applicant had also placed reliance on the Central Excise Tariff, 1985 along with harmonized commodity description and coding system for the purpose of the same.

A. The Applicant further submitted that the Central Excise Tariff Act, 1985, covers all types of Exercise Books, Note Books etc. for writing under heading 4820 and all types of publications books i.e. Printed Books including the printed workbooks and similar books are covered under Heading 4901. The products under consideration are duly recognized and classified as printed books of Heading 4901 of Central Excise Tariff Act, 1985. Further, the classification of the said books under the category of printed books is also substantiated with the Explanatory Notes to Harmonized Commodity Description and Coding System i.e. HSN, published by the World Customs Organization. In fact the Central Excise Tariff Act, 1985 is fully aligned with HSN and
the said Explanatory Notes to HSN specifically illustrates in detail that printed books/publications in the nature of workbooks and similar books are covered under the Heading 4901. In other words, internationally the said printed publication books are recognized as Printed Educational Books and not as Exercise Books.

The Applicant has reproduced the abstract of heading 4901 and 4820 of Central Excise Tariff Act, 1985:

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<thead>
<tr>
<th>Heading No:</th>
<th>Sub-heading No:</th>
<th>Description of Article:</th>
</tr>
</thead>
<tbody>
<tr>
<td>4901</td>
<td></td>
<td>Printed books, broachers, leaflets and similar printed matter whether or not in single sheets</td>
</tr>
<tr>
<td>4901.10</td>
<td></td>
<td>In single sheets, whether or not folded</td>
</tr>
<tr>
<td>4901.10.10</td>
<td></td>
<td>Printed books</td>
</tr>
<tr>
<td>4901.91.00</td>
<td></td>
<td>Dictionaries and encyclopedias, and serial installments thereof</td>
</tr>
<tr>
<td>4901.99.00</td>
<td></td>
<td>Other</td>
</tr>
</tbody>
</table>

4820. - Registers, account books, note books, order books, receipt books, letter pads, memorandum pads, diaries and similar articles, [exercise books] blotting pads, binders (loose-leaf or other), folders, file covers, manifold business forms, interleaves carbon sets and other articles of stationery, of paper or paperboard, albums for samples or for collections and book covers, of paper or paperboard.

4820 10 - Registers, account books, note books, order books, receipt books, letter pads, memorandum pads, diaries and similar articles

4820 10 10 --- Registers, account books.
4820 10 20 --- Letter pads
4820 10 90 --- Other
4820 20 00 - Exercise books.
4820 30 00 - Binders (other than book covers), folders and file covers.
4820 40 00 - Manifold business forms and interleaved carbon sets.
4820 50 00- Albums for samples or for collections.
4820 90 - Others:
4820 90 10 --- Blotting papers cut to size.
4820 90 --- Other"
It is submitted that as per the Central Excise Tariff Act, 1985 read with HSN as well as explanatory notes thereof, the said printed publication books i.e. products under consideration for which we use the generic term as "Workbooks" are recognized as Printed Educational books.

4.8 Further the dealer differentiated on the Schedule Entry C-32 and submitted that products under consideration are not covered under schedule entry C-32.

A. It is submitted that the other competing entry under which products under consideration could get covered was C-32, chargeable to VAT at the rate of 4%/ 5%. The relevant entry read as under:


The Applicant has drawn our attention to the following meanings /definitions of the term "Exercise Book":

**Exercise book:**

i. (Education) a notebook used by pupils and students
ii. a booklet with blank pages for students to write schoolwork in (British English) [http://www.thefreedictionary.com/exercise+book]

It is submitted that as seen from the above definition, it is clear that the "Exercise books" are basically completely blank books in which students/pupils can write and take notes. An exercise book (also called version book or in Ireland, a copy book) is a notebook that is used in schools to copy down schoolwork and notes.

It is submitted that the exercise book format is different for some subjects. For the majority of subjects, the exercise book will contain lined paper with a margin, but for other subjects such as mathematics, the exercise book will contain squared or blank paper to aid in the drawing of graphs, tables or other diagrams. Exercise books are without reference to any Standard or Subject. They are freely usable for writing by any person including Students. They are not Copyrighted books. Thus, products covered under schedule entry C-32 are stationery articles and they are not printed publication books and they are predominantly meant for writing and practice purposes and normally contain sheets of lined papers or plain papers duly bound together.

In this respect the applicant relied on the judgement in following cases.

The applicant invited our attention to the decision of Hon'ble Supreme Court in the case of Maharaja Book Depot vs. State of Gujarat (66 AIR 180) {SC} wherein the meaning of
"Exercise Book" was considered. The relevant extract of the said decision is read as under:

"It cannot be disputed that an exercise book is nothing but a collection of sheets of papers (blank or lined) stitched together by a piece of string or pinned together with pins of a stapler and is a substance used for writing and therefore, would clearly fall within the item "paper". The test would be whether because of stitching or pinning them together such collection of sheets loses its identity as paper? The answer must be in the negative"

The applicant further submitted that the concept of exercise book was again explained by Hon'ble Kerala High Court in case of Kunnampulam Book Company vs. State of Kerala [2002] 125 STC 229 (Ker). The relevant extract is read as under:

"......It cannot be disputed that an exercise book is nothing but a collection of sheets of paper (blank or lined) stitched together by a piece of string or pinned together with pins of a stapler and is a substance used for writing and, therefore, would clearly fall within the item 'paper'. The test would be whether because of stitching or pinning them together such a collection of sheets loses its identity as paper? The answer must be in the negative. Looked at from this angle it is difficult to accept the contention that an exercise book is a distinct commodity other than paper". The Supreme Court followed another decision in Deputy Commissioner of Sales Tax (Law), Board of Revenue (Taxes), Ernakulam v. Pio Food Packers (1980) 46 STC 63 (SC). There, the processing of pineapple fruit is processed into pineapple slices for being sold in sealed cans. It was held that although it has undergone a degree of processing, it must be regarded as still retaining its original identity."

The Reliance is placed on the decision of Hon'ble Punjab and Haryana High Court in case of Master Book depot vs. CST [1998] 11 PHT 527, wherein it was held by the Hon'ble High Court that Exercise Books for Physics, Chemistry and Home Science Practical, having about 80 per cent blank space for conducting exercises and rest 20 per cent disclosing the experiments to be conducted are not exercise book simplicitor. They are special type of books and are exempted from tax under the Notification issued for the exemption of books. In this judgement, though the 80% space is blank, it is held that these books are not exercise book but simply the books. The ratio of the above decision is squarely applicable in the present case.

It is submitted that the Applicant had earlier explained the meaning of the term workbook and now it has explained the meaning of the term Exercise Book. The above explanation makes it fairly evident that the products under consideration are not exercise books to get covered under entry C-32.
4.9 The applicant further submitted that, the amendment in the schedule of MVAT Act made by the Act of 2015 clarifies the intention of the legislatures.

A. It is submitted that the entry A-6 in which the Applicant had classified its products has been amended by the Finance Act, 2015 of the Government of Maharashtra. It is submitted that at the time of bringing the said amendment the Hon'ble Finance Minister of Maharashtra has clarified that the said amendment was brought to remove the ambiguity. It was not said that certain new products were brought into the schedule A to be taxed at nil rate. But the said amendment to the schedule was made to remove the ambiguity, this makes it clear that the legislature always intended to exempt the products such as workbook from the levy of the sales tax.

B. The relevant extract of the budget speech of the Hon'ble Finance Minister is read as under:

"15. Ambiguity in tax rate on any commodity is not conducive to economy. Even if the decision of a judicial forum comes in favour of the tax payer, there remains an uncertainty of the applicable tax rate during the intervening period and if decision comes in favour of Government the concerned trade is burdened with tax, penalty and interest which creates burden on the business. Business should not face such ambiguity. Certainty in taxation is an integral part of an ideal tax system.

Considering this, I propose some amendments, to remove ambiguities:

(i) Exemption from tax to Workbook, Drawing Book, Laboratory Book, Graph Book

Presently, books are exempted from tax, and exercise books, graph books, laboratory note books and drawing books are taxed at five per cent. Workbooks provide reading material and also space for writing. There is dispute regarding rate of tax on Workbook. It is disputed in the assessment as to whether workbook should be treated as book or exercise book or anything else. Some assessments are also pending in appeal.

Considering these aspects, for certainty in future I declare that Workbooks will be tax free from 19 April, 2015. For earlier periods, outcome of judicial forum will be honored. I also declare drawing book, laboratory note book and graph book to be tax free from 1st April, 2015."

C. It is submitted that the amendments made to remove the ambiguity are clarificatory in nature and the clarificatory amendments are retrospective in nature. Further even if it is assumed that the amendment was prospective, it is settled law that if the earlier act is ambiguous then the later may throw light on the ambiguity and can be used as tool to interpret the law.
D It is further submitted that the said mention of the Workbook was made as serial no. (b) of the entry A-6. At the time of making amendment the earlier entry was not changed but it was only renumbered as A-6(a). Thereafter at serial no. (b) of the entry A-6 the products workbook etc. were mentioned. The above inclusion of the workbook at serial no A-6 makes it clear that the workbook was always species of the books as mentioned in the entry before amendment. If the legislature intended to include some new product in the said schedule of the nil rate then it could have inserted the new entry with serial no. A-6(A) between entry A-6 and Entry A-7, but instead of doing the same it was included in the exiting entry A-6. This makes it fairly evident that the workbooks were always classifiable under entry A-6 and the recent amendment just exemplified the fact which was always in there in legislation. It is submitted that the said insertion of the workbook was made without specific exclusion of the said term from any other entry. This fact itself proves that the term workbook was not covered earlier by any other entry. It is also submitted that the fact that the said amendment has used words Workbooks separate than the term Exercise Books, make it clear that both books are different. Further the term workbook without excluding from the entry C-32 was included at the entry A-6. This fact also proves that the above products of the Applicant are books and were covered in the entry A-6 and were never covered by entry C-32.

4.10 The Applicant further relied on the test of common parlance, which is the key test for determining the classification of goods under the sales tax law. The people dealing with such workbooks and similar books as well as users treat this as books and not exercise books. The applicant in support of this contention submitted the Certificates issued by some parents and the book sellers certifying that the Workbooks are treated by them as books.

In this respect, the applicant submitted that, it is also settled principle of interpretation of entry that the goods should be interpreted in light of trade parlance and common parlance. Reference is made to the judgment of Hon'ble Supreme Court in case of G.S. Pai (45 STC 58) (SC) and Ramavtar Budhaiprasad (12 STC 286) (SC) as follows;

"XXX...the word "vegetables" in Ramavtar Budhaiprasad v. Assistant Sales Tax Officer, [1961] 12 S.T.C. 286 (S.C.) their Lordships of the Supreme Court observed that the word "vegetables" must be construed not in any technical sense nor from the botanical point of view but as understood in common parlance".
4.11 The applicant further submitted the consistently the products under consideration were classified as books

It is submitted that the Applicant is serving in this Industry and in this particular business for more than three decades till date. Earlier, even under the BST Act, the Entry A-3 was similarly worded as entry A-6 under the MVAT Act, 2002. The Applicant had been allowed exemption for all the past years. In short the Applicant as well as the Assessing Officers for all the years have accepted the claim of the Applicant that the Workbooks and similar books are covered by Schedule A of the MVAT Act as well as repealed BST Act. Further, it is submitted that there is no material change. Hence the above facts also support the view of the Applicant that the products under consideration were covered under Entry A-6.

Reference in this context is made to the judgment of M/S Ponds India Ltd. v/s Commissioner of Trade Tax (15 VST 256) (SC) wherein Hon'ble Supreme Court held that if any Entry has been interpreted consistently in particular manner for several assessment years, ordinarily it would not be permissible for Revenue to depart therefrom unless there is material change. The Applicant further invited our attention to the judgement of Bombay High Court in case of Merind Ltd. {136 STC 462} {Bom}. In this case, it is held that the interpretation made for long time should not be disturbed, if entries are same. In other words, consistency is required to be maintained. The said principle is also reiterated by Hon. Supreme Court in case of Mauri Yeast India Pvt. Ltd. v. State of U.P. {14 VST 259} {SC}. This principle squarely applies to applicant's case, since the Applicant has been assessed regularly for last so many years under exempted entry of books by Sales Tax Department.

Having submitted above it is clearly reflective that the products under consideration are indeed 'books' that are in nature of workbooks and cannot be considered as 'exercise books'.

5. The legal position, Analysis and discussion: -

5.1 On this background, it would be worthwhile to have a closer look at the statutory provisions obtaining under the MVAT Act, 2002.

**Section 6: Levy of sales tax on the goods specified in the Schedules: -**

(1) There shall be levied a sales tax on the turnover of sales of goods specified in column (2) in Schedule B, C, D or, as the case may be, E, at the rates set out against each of them in column (3) of the respective Schedule. Thus, Section-6 of MVAT ACT provides that the tax is to be levied on commodity which is sold.

5.2 The Schedule Entry A-6 under MVAT ACT: - The applicant has claimed that his products under consideration is covered under schedule entry A-6. Therefore, to ascertain
the applicant's claim, it is necessary to understand the Schedule Entry under which applicant has discharged tax liability for impugned goods and the products of applicant.

The schedule entries are reproduced to have clear idea.

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Name of the commodity</th>
<th>Rate of Tax</th>
<th>with effect from</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-6</td>
<td>Books, that is to say, every volume or part or division of a volume including almanacs, panchangs, time tables for passenger transport services and periodicals, maps, charts, orreries and globes, but excluding annual reports, application forms, account books, balance sheets, calendars, diaries, catalogues, race cards, publications which mainly publicise goods, services and articles for commercial purposes and publications which contain space exceeding eight pages for writing.</td>
<td>Nil %</td>
<td>1.2.2006 to 31.3.2015</td>
</tr>
<tr>
<td>A-6</td>
<td>(a) Books, that is to say, every volume or part or division of a volume including almanacs, panchangs, time tables for passenger transport services and periodicals, maps, charts, orreries and globes, but excluding annual reports, application forms, account books, balance sheets, calendars, diaries, catalogues, race cards, publications which mainly publicise goods, services and articles for commercial purposes and publications which contain space exceeding eight pages for writing.</td>
<td>Nil %</td>
<td>1.4.2015 to date</td>
</tr>
<tr>
<td></td>
<td>(b) Graph book, Laboratory notebook, Drawing book and Work book.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

5.3 The dealer is selling the following products and submitted the sample of each product.

Bhugol Vyavasaya - Standard VI;

Ganit Vyavasaya - Standard VI;

My English Workbook (Hindi Sanskaran) - Standard III;
Vikas Paryavaran Shikshan (Margdarshan, Nondhvahi) - Standard VII;
Vikas Karyanubhav - Standard II;
Vikas Physical Education (Manual-cum Journal) - Standard VIII

The dealer submitted that, the above named products are collectively termed as workbook and it does not contain space exceeding eight pages for writing. On this background, we have gone through the samples submitted by applicant. It is seen that; the products under consideration are for the School Standards II to VIII. These workbooks are primarily based on the lessons in respective text book. All the lessons in text book are covered in respective work book. Each lesson in workbook normally gives brief information of the lesson in the beginning and poses some questions in the form of fill in the blanks, answer the following, match the pairs, solve the examples etc. Since the workbook is based on lessons in textbook, both the products i.e. Textbook and Workbook can be differentiated. The text book covers the total description and in-depth details of the chapter, whereas, the workbook details only specific, important and must know information, which could be used to understand the crux of the respective lesson. This purpose of workbook can be described in short as, it is normally used for revision of contents in the lesson from text books. If one learns the lesson thoroughly from text book, then, he will have total knowledge of that lesson and can answer all the questions from workbook. However, if one learns only from workbook without learning the lesson from textbook, then, he will not understand the concept and aura of the said lesson. He will only know the important issues and information of said lesson from the workbook. Thus workbook is a product secondary to the text book and is not a replacement for any text book. It is different commercial commodity than text book. We have observed the following from the samples produced before us;

**Bhugol Vyvasaya - Standard VI** – This is a workbook ((In Marathi Vyavasaya) on the subject, Geography (In Marathi Language ‘Bhugol’). It is based on the textbook lessons of Standard VI. Every lesson begins with the important points of in the lesson followed by various types of questions such as, true/ false, correct the sentences, answer in one sentence, answer the questions, some general questions to think upon and blank spaces for writing the answers. It also has six question papers which are to be solved either with textbook or without textbook.

**Ganit Vyvasaya - Standard VI** – This is a workbook ((In Marathi Vyavasaya) on the subject, mathematics (In Marathi Language ‘Ganit’). It is based on the textbook lessons of Standard VI. Every lesson begins with the important points of in the lesson followed by various types of questions, some general questions to think upon and blank spaces for writing the answers. It also has six question papers which are to be solved either with textbook or without textbook.
My English Workbook (Hindi Sanskaran) - Standard III - This is a workbook on the subject, English. It is based on the textbook lessons of Standard III. It is made to understand English words or sentences for the Hindi based students. It also has some questions with blank spaces at the end of each lesson.

Vikas Paryavaran Shikshan (Margdarshan,Nondhvahi) - Standard VII - This is a workbook (In Marathi Margdarshan and Nondhvahi) on the subject, Environment Education (In Marathi Language ‘Paryavaran Shikshan). It is based on the textbook lessons of Standard VII. Every lesson begins with the subject related story followed by important points in the lesson, followed by various types of questions, some general questions to think upon and blank spaces for writing the answers. It has some blank formats to write details into them.

Vikas Karyanubhav - Standard II - This is a workbook on the subject, Work Experience (In Marathi Language ‘Karyanubhav’). It is based on the syllabus of Standard II. Every lesson give the information on the subject followed by some oral questions and tasks to be done.

Vikas Physical Education (Manual-cum Journal) - Standard VIII - This is a Manual cum Journal on the subject, Physical Education. It is based on the syllabus of Standard VII. Every lesson gives information on the subject followed by some questions and tasks to be done.

Coming to the schedule entry A-6 which covers mainly books and includes other commodities with the wording ‘that is to say’, are, every volume or part or division of a volume including almanacs, panchangs, time tables for passenger transport services and periodicals, maps, charts, orreries and globes and excludes annual reports, application forms, account books, balance sheets, calendars, diaries, catalogues, race cards, publications which mainly publicise goods, services and articles for commercial purposes and publications which contain space exceeding eight pages for writing. As for as inclusion part and exclusion part of schedule entry A-6 is concerned, there is not dispute that the products under consideration are not covered under either inclusion or exclusion part of the schedule entry A-6. Thus there remains the issues that whether the products under consideration are ‘Books’ or not as per entry A-6 and further, whether legislature intends to cover similar products or products under consideration by any other schedule entry.

5.4 We first evaluated the Rate Schedule appended to MVAT Act to ascertain whether books in different forms are separated from each other and whether there exists any other schedule entry than A-6 and we come across a schedule entry, as follows;
<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>Name of the commodity</th>
<th>Rate of Tax</th>
<th>with effect from</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
</tr>
<tr>
<td>C-32</td>
<td>Exercise book, graph book, laboratory note books and drawing books.</td>
<td>4%</td>
<td>1.2.2006 to 31.3.2010</td>
</tr>
<tr>
<td>C-32</td>
<td>Exercise book, graph book, laboratory note books and drawing books.</td>
<td>5%</td>
<td>1.4.2010 to 31.3.2015</td>
</tr>
<tr>
<td>C-32</td>
<td>Exercise book</td>
<td>5%</td>
<td>1.4.2015 to 31.3.2016</td>
</tr>
<tr>
<td>C-32</td>
<td>Exercise book</td>
<td>5.5%</td>
<td>1.4.2016 to 16.9.2016</td>
</tr>
<tr>
<td>C-32</td>
<td>Exercise book</td>
<td>6%</td>
<td>17.9.2016 to 30.6.2017</td>
</tr>
</tbody>
</table>

The applicant has already referred to the schedule entry C-32, in his submission. Therefore, on going through the schedule entry C-32, it is seen that it includes Exercise book, graph book, laboratory note books and drawing books at various times up to 31.3.2015 and are taxable @4% to 6%. Thus, these four commodities are separated from the term books. On careful analysis of schedule entry C-32, it is seen that, all the commodities covered under schedule entry C-32 are covering products which are secondary and supports the student to understand the basic text material from schedule entry A-6 i.e. books. The commodities included in entry A-6 are books and every volume or part or division of a volume including almanacs, panchangs, time tables for passenger transport services and periodicals, maps, charts, orreries and globes. These are basic informative commodities and complete on their own whereas commodities included in entry C-32 are seen as supportive in nature. A workbook cannot be main source of learning of student. The main source is the textbook whereas the Exercise book, graph book, laboratory note books, drawing books and also the workbook is secondary and supportive for study to the student. The legislature has differentiated the schedule entry for different products on the basis of purposes of its use.

5.5 Now we come to the part that whether 'workbook' is 'book' that can be included in schedule entry A-6. Normally, a text book is a book that is basically prescribed by a particular institution or government for a particular subject. Textbooks are extremely thorough in nature and content. A textbook is an organized body of material useful for the formal study of a subject area. Whereas, the term workbook is used to describe the compilations of questions and customized interactive manuals which are used to help provide structure to a
particular lesson in brief. Workbooks are usually smaller and lighter than textbook. For a student, a textbook is compulsory but the workbook as described in the products under consideration is not a compulsory one. Though some teachers/school prescribe to purchase workbook, it is the sole decision of particular teacher/institution, as the products under consideration are private publication. It cannot replace or substitute textbooks. The textbooks are naturally covered under schedule entry A-6 but a workbook cannot be as it is different than a textbook. It is supportive and secondary in nature.

5.6 Further, the applicant has contended that, the product under consideration does not have space exceeding eight full pages. We have seen that, though there are no full eight pages' space for writing, the space exists to write the answer of the questions posed in workbook.

5.7 The applicant has relied on the definition of books from various dictionaries and in view of various definitions the workbook is nothing but a book. But as explained earlier in order, the legislature intends to differentiate the basic product and the supportive/secondary product by inducting different schedule entries under the Act. Thus the contention of applicant is rejected.

5.8 The applicant related his product excise code under Central Excise tariff to show the united nature of commodities, however, it is settled law that unless the schedule entry under MVAT Act refer to any classification under Central Excise Tariff, it is not to be used for classification of goods under the MVAT Act. Hence, the applicant's contention on this account is rejected.

5.9 Further, the applicant submitted that, while amendment to schedule made by the Act of 2015, it was clarified that the said amendment was brought to remove the ambiguity as there was dispute on levy of tax on workbook. Therefore, it was declared that, the Workbooks will be tax free from 1 April, 2015 and for earlier periods, outcome of judicial forum will be honored. Further, it was also declared that drawing book, laboratory note book and graph book to be tax free from 1st April, 2015. We have seen that the assessing officers have treated the sales of workbook as sales of exercise books in the assessment orders and the applicant has filed appeal against the said orders with the appellate authorities. Further, the applicant contended that, the assessing officers have allowed the sales of products under consideration as tax-free sales under earlier Act. In this regard, we say that these two Acts are different and the amendment to the schedule entry was brought with prospective effect.

5.10 The applicant referred to various judgments as mentioned earlier in this order and contended that, on basis of these judgement, his products under consideration should be treated as books. We have gone through these judgments and found that the product classification as seen in schedule appended to the MVAT Act varies with Acts of other State, hence the judgments referred by applicant are not applicable to his case.
5.11. In view of above, we come to conclusion that, the products under consideration are not covered by schedule entry A-6.

6. Determination of schedule entry and rate of tax on products under consideration:-

The applicant has contended that different products are termed as one in market in common parlance and though applicant's product under consideration is termed as workbook, it is actually a book. To support this contention, he submitted the samples of exercise book and notebook and stated that these two are either termed as Notebook or Exercise book and vice versa in common parlance in market. We have seen that; it is correct in respect of these products. The exercise book itself denotes to be a notebook on its covering page. Thus, the notebook can also be termed as exercise book. On comparative analysis of dealer's submission on the products under consideration and the related schedule entries i.e. A-6 and C-32, as discussed earlier, it is seen that, both work book and exercise book are used by students to solve exercises given in the lessons. Both, work book and exercise book contains questions on a particular lessons and, are used for writing answers of these question. Both, work book and exercise book are secondary and supportive to the study of lessons in textbook of particular standard. The schedule entry C-32 covers the products Exercise book, graph book, laboratory note books and drawing books. We find that a workbook is nothing but the exercise book in common parlance, as both are used to solve exercises given in the lessons,

The facts and circumstances of the case and in view of above discussion, it is decided that the products under consideration commonly known as workbook, does not find place in schedule entry A-6. We hold that the products under consideration commonly known as workbook are exercise book covered by schedule entry C-32, and are liable to VAT as per the rate provided and amended in said Schedule from time to time.

5. The prospective effect:-

Mr. Nitin Shah Advocate stated that if Authority arrived to different opinion, and it is held that product is not covered by the said Schedule Entry as proposed by the applicant, then benefit provided in section 55(9) shall be given to him and prospective effect to Advance Ruling order may be given. Therefore, considering above facts and circumstances, the protection is to be given by making the ruling prospective from the date of pronouncement.
On the fact of this case, issues dealt with in earlier paras, it is necessary to analyse the provisions related to prospective effect in relevant Act. For clarity the provisions are reproduced as under.

(a) Section 55 (9): - The Commissioner or, as the case may be, the Advance Ruling Authority, may direct that the Advance Ruling shall not affect the liability of the applicant or, if the circumstances so warrant of any other person similarly situated, as respects any sale or purchase effected prior to the Advance Ruling.

On careful analysis of the section, it reveals that the Advance Ruling Authority may protect the liability of dealer in two conditions.

a. in case of applicant or
b. if the circumstances so warrant of any other person similarly situated.

It is settled principle that the issue of prospective effect is to be considered on fact and circumstances of each case separately. There is no straight jacket formula to say that prospective effect is to be given in typical circumstances. However, the Hon. Bombay High Court in case of Lalbaugcha Raja Sarwajanik Ganeshotsav Mandal has laid certain principle for granting the prospective effect. We would like to refer the same on set of said facts and merit of the case in hand.

(b). The Hon. Bombay high Court in case of Lalbaugcha Raja Sarwajanik Ganeshotsav Mandal (MVAT Tax Appeal No.10 of 2015) while interpreting the similar provisions under section 56 of MVAT ACT,2002 laid dawn the principles regarding the granting of prospective effect and observed in relevant Para that—

"10. On plain reading of both the subsections (1) and (2) of Section 56, it is apparent that the Commissioner may direct that the determination shall not affect the liability under the MVAT Act of the applicant or if the circumstances so warrant, of any other person a similarly situated, as respects any sale or purchase effected prior to a determination. Therefore, this is not a mandate but a discretionary power vested in the Commissioner. This discretionary power has to be exercised and while exercising it, the Commissioner, has to be guided by certain inbuilt checks and safeguards. He cannot in the garb of giving relief of the nature contemplated by subsection (2) totally wipe out the liability of any and every dealer.

11. The Commissioner is expected to exercise this discretionary power so as not to defeat the law or render its provisions meaningless or redundant. The power must be exercised bearing in mind the facts and circumstances in each case. No general rule can be laid down. The exercise of this discretionary power must be bonafide and reasonable so also sub-serving the larger public interest. The highest officer in the hierarchy is chosen by the legislature as there is a presumption that this executive functionary will exercise the discretion in genuine and bonafide cases. He must be satisfied that there is a real need and the circumstances warrant exercise of the same. The power being wide, the
satisfaction must be backed by cogent and strong reasons which can be tested in a Court of law.

12. The words are of wide amplitude and if the Commissioner exercises the discretion injudiciously or arbitrarily and contrary to the object and purpose sought to be achieved by the enactment itself, his exercise of the discretionary power is always capable of being questioned. Therefore, when the Commissioner finds that there was never a disputed question to be determined and the law is very clear and free of doubt, equally its applicability, then, refusal by the Commissioner to exercise the discretion is rightly Upheld by the Tribunal. Just as the Commissioner was obliged to assign reasons for not exercising his discretionary power equally the Tribunal was in upholding his order. The Tribunal in paragraph 22 of its order found that the entire process was utilized so as to delay compliance with the mandate of the Act. The Tribunal has also found that the Commissioner refused to grant relief holding that there is no ambiguity in the provisions and there is no scope, for any doubt arising out of the provisions and relevant for the purpose of the determination. The reasons that are assigned by the Commissioner for refusing to give prospective effect to his determination order, have not been found to be suffering from any error of law apparent on the face of the record or perversity warranting interference in the appellate jurisdiction of the Tribunal."

The observations of the Hon. High Court as aforementioned are equally applicable to the Advance Ruling Authority and the powers delegated to the Advance Ruling Authority must be used in very logical and judicious manner in order to protect the liability of applicant and also subserve the larger public interest. These powers are coupled with duty to see whether the applicant has really strong reasons, which necessitate the use of discretionary powers. These powers cannot be used as per wish and whims of authority concerned.

(c) In the present case, as discussed above on the merit, there is no ambiguity in the entries. Thus, the applicant fails to establish his case. The applicant cannot prove existence of circumstances which warrant us to use the discretionary power. In fact, use of such discretionary powers in the absence of compelling circumstances would be detrimental to legitimate government revenue and would wipe out the legitimate tax liability. In these circumstances; we do not allow the use of prospective effect as a tool to protect or to wipe of legitimate tax liability. Hence, we feel that here is no strong and sufficient reason to hold that this advance ruling shall not affect the liability of the applicant or, if the circumstances so warrant of any other person similarly situated, as respects any sale effected prior to the Advance Ruling.

d) Hence, the prayer for granting prospective effect to this order is hereby rejected. Hence, we proceed to pass following order.
6. In view of discussion held herein above, it is held that -

1] Whether the correct classification of the below mentioned products under Maharashtra Value Added Tax Act, 2002 for the period upto 31 March 2015 is under schedule entry A-6: No these products are not covered under Schedule Entry A-6.
[Bhugol Vyavasaya - Standard VI;
Ganit Vyavasaya - Standard VI;
My English Workbook (Hindi Sanskaran) - Standard III;
Vikas Paryavaran Shikshan (Margdarshan, Nondhvahi) - Standard VII;
Vikas Karyanubhav - Standard II;
Vikas Physical Education (Manual-cum Journal) - Standard VIII].

2] If not, then what is the correct schedule entry for products under consideration –
The products under consideration are covered by Schedule Entry C-32.

3] The applicant’s prayer for prospective effect is rejected.

Note: If the applicant is aggrieved by this order then Appeal may be filed before the MSTT, Mumbai within the prescribed time (Thirty days) as provided in the relevant Section of the Act.

NO: ARA. (Mumbai), / 174 OF 2018-19/ 2019-20/B-No. O4 Dated 03/05/2019

Copy to:-
1. Applicant.
2. Commissioner of State Tax, M.S. Mumbai.