

Read - Application dt.Nil received on dt.13.05.2013 by M/s. Agro Engineering Industries.  
Heard - Sh. Ratan Samal, Advocate.

## PROCEEDINGS

(u/s 56 (1)(e) of the Maharashtra Value Added Tax Act, 2002)

No. DDQ 11/2013/Adm-6/22/ B- 1

Mumbai, dt. 5/12/2015

An application is received from M/s. Agro Engineering Industries having address as W-27, Addl. M.I.D.C. Area, Jalna 431 213 (MS), having TIN 27090870037V, seeking determination of the rate of tax on the products "Grader (Separator)" and "Gravity Separator" which are described in the invoices thus :

Invoice No.00039 dated 07.11.2012	Gravity Separator (5 Fan) with motor
Invoice No.00026 dated 03.08.2013	Grader Separator complete

### 02. FACTS OF THE CASE

The submission in the application is reproduced verbatim thus :

- a. "Reason for the present application : The applicant is under confusion about the classification of the impugned product known as grader (separator) & gravity separator i.e. equipment which separates low grade materials from all types' seeds, grains and pulses. There are two entries under the MVAT Act one is under Schedule A Entry 1 which is exempted from tax and other one is under Schedule C Entry 1 which is subject to tax @ 5%. The applicant has manufactured for the first time in the State of Maharashtra and there are no other competitors in the State of Maharashtra. Hence, the present application to know the correct Entry under MVAT Act.

Gravity Separator machines and grader (separator) which separates low grade seeds and grains from high grade seeds which is an equipment used in Agricultural sector whether it can be termed as agricultural implements for the purpose of Schedule Entry A-1 or whether it will fall under Schedule Entry C-1 or any other entry under the schedule appended to VAT Act? Purpose of Schedule Entry A-1 or whether it will fall under Schedule Entry C-1 or any other entry under the schedule appended to VAT Act?

- b. Statement of relevant facts and evidences : The applicant a registered dealer under the Maharashtra Value Added Tax Act and Central Sales tax Act is involved in the business activity of manufacturing of agricultural machinery & parts, machinery/spares, processing machinery, dal mill machinery & cleaning machinery.

The impugned product grader (separator) and gravity separator are also manufactured by the applicant and applicant is treating them as agricultural implements.

The seed separation process is carried out through grader (separator) and gravity separator as under:

#### A) GRADER (SEPARATOR)

Process Methods

1. First grains and pulses put in to the input basin of the machine.
2. The machines itself carry out the process separating dust, husk, mud, kadi from the original seeds and grains.
3. The separated graded seeds, pulses and grains throughout in to the out basin and dust, husk etc. will be collected in a dust bin bag or drum.
4. The collected pure seeds, pulses and grains packed into gunny bags for further packing and other activities.

#### B) GRAVITY SEPARATOR MACHINE

Process methods

1. First grains and pulses put into the input basin of the machine.
2. The machine itself sorting quality wise grains and pulses.
3. The so sorted grains, seeds, pulses throughout in to the out basin and rejected and low quality material collected separately.
4. The collected pure seeds, pulses and grains packed into gunny bags for further activities.

- c. The applicant is selling the product both in State of Maharashtra and outside the State of Maharashtra.



Though the applicant is of the firm opinion that the product will be exempted from tax but at a safer side the applicant is charging 5% when it sales in the State of Maharashtra and for out of Maharashtra Sales, the applicant is charging 2% against C form.

- d. The applicant is selling the products with motors fitting and without motor fitting it can be sold.
- e. Schedule Entry A-1 appended to the MVAT Act deals with agricultural implements manually operated or animal driven as may be notified and components or part of such implements. The Government of Maharashtra vide notification no. VAT 1505/CR/109/Taxation-1 dated 1.06.2005 & amended notification no. STA - 1105/CR-79/Taxation -1 dated 1.09.2005 deals with the agricultural implements notified for the purpose of Schedule Entry A-1. In the said notification at Serial No.68 talks about seed graders. Hence the applicant is of the opinion that seed graded sold with or without motor will fall under the ambit of notification stated as above.
- f. However, the applicant in abundant caution is collecting tax @ 5% treating it as falling under Schedule Entry C-1 which reads as Agricultural machinery and implements, and components and parts thereof than tractors, trailers, semi trailers, oil engines, electric motors, pumps, electric pumping sets, capacitors of all types and pipes of all types.
- g. The applicant has sold the impugned goods to the customer in the State of Maharashtra as well as outside Maharashtra.
- h. The applicant wants to know whether, the impugned product know as seed grader complete with motor and seed gravity complete with motor, gravity separator will fall under the Schedule Entry A-1 being agricultural implements and whether the same is exempted from tax or whether the impugned product will fall under Schedule Entry C-1 of the MVAT Act, or any other entry.
- i. The applicant is collecting tax as stated earlier @ 5% treating them as agricultural machinery and implements specified under Schedule Entry C-1, since the manually operated seeds separator are known as agricultural implements under the notification entry dated 1.9.2005 as referred above and further, since the seed grader alongwith motors are sold they are nonetheless but agricultural implements. Hence, applicant has charged VAT @ 5%. However, if your honour differs the opinion of the applicant then the liability till the date of the order may be protected.
- j. However, the applicant needs an authentic opinion from Your Honour, hence it is the humble submission of the applicant an opinion may be provided in respect of the above queries raised at an earliest possible. ”

### 03. HEARING

The case was taken up for hearing on dt.14.11.2014 and dt.22.07.2015 when Sh. Ratan Samal [Advocate] attended the hearing. The submission made on dt.14.11.2014, and as reiterated during the hearing on dt.22.07.2015, is thus :

- The products for determination are 'Gravity Separator' and 'Separator Grader'. The products are used for grading different types of seeds, grains and pulses. Both the equipments operate with the help of motor.
- The schedule entry claimed applicable is entry A-1 which at Sr.No.68 of notification therefor describes the product 'seed grader'. But as an abundant caution, the applicant is charging tax @ 5% under schedule entry C-1 for 'agricultural machineries and implements'. Hence, a determination order giving an authentic opinion is needed. If the aforesaid claims are not acceptable, a request for prospective effect is made. The applicant states that the product is a monopoly item and therefore there is no other competitor.

The applicant was informed that the schedule entry A-1 is for manually operated or animal driven agricultural implements whereas the present products are operated on machine and therefore, claim under the entry A-1 would not be feasible. To this, it was submitted that merely fixation of motor doesn't ceases the product to be manually operated. As regards claim to the other entry for agricultural machinery and implements under schedule C (C-1), the applicant is informed that the products do not appear to be agricultural implements as the



activities which the products perform appear to be post agricultural produce operations and more concerned with marketing of the agricultural produce. To this, it was submitted thus -

- a. After the separation of the grades of the seeds, it does not lose the characteristics of the seed which can be used by a farmer in the field.
- b. Therefore for all purposes, it can be termed as agricultural implement.
- c. Alternately it is argued that even if the seeds are sold in the market for commercial purposes, the process carried out is nonetheless an agricultural process.

The applicant had given the following bills for determination :

Invoice No.00025 dated 29.01.2012	Gravity Separator (5 Fan) with motor
Invoice No.00028 dated 01.02.2012	Seed Grader complete with motor heavy duty
Invoice No.00014 dated 10.01.2012	Gravity Separator (5 Fan) with motor

However, the bills presented for determination pertained to the period 2011-12 which was assessed by the Department. Hence, the applicant provided bills for the unassessed period, the details of which have been reproduced above alongwith the question. Further, the applicant clarified that the product 'Seed Grader' and 'Grader Separator' were the same products. The applicant had, in the later periods, described the product 'Seed Grader' in the bills as 'Grader Separator'.

#### 04. OBSERVATIONS

I have gone through the facts of the case. The products are "Grader (Separator)" and "Gravity Separator". The applicant claims that these are covered by the schedule entry A-1 of the Maharashtra Value Added Tax Act,2002 (MVAT Act,2002) and in the alternative, it is contended that the products would be covered by the schedule entry C-1 of the MVAT Act,2002. I would discuss the claims to each of the schedule entries thus :

##### Schedule entry A-1

A-1	<b>Agricultural implements manually operated or animal driven as may be notified by the State Government, from time to time, in the Official Gazette and components and parts of such implements.</b>
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It can be seen that the entry specifies the following :

- a. *It is for agricultural implements.*
- b. *These agricultural implements are manually operated or animal driven.*
- c. *Not all manually operated or animal driven agricultural implements are covered by the schedule entry but only those agricultural implements as have been notified by the State Government in the Official Gazette are covered by the entry.*
- d. *The entry also covers components and parts of the agricultural implements which have been notified.*

##### Schedule entry C-1

C-1	<b>Agricultural machinery and implements, and components and parts thereof other than tractors, trailers, semi-trailers, oil engines, electric motors, pumps, electric pumping sets, capacitors of all types and pipes of all types.</b>
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It can be seen that the entry covers agricultural machinery and implements and their components and parts. The entry does not speak of a notification. The entry very categorically



mentions that *tractors, trailers, semi-trailers, oil engines, electric motors, pumps, electric pumping sets, capacitors of all types and pipes of all types* would not be covered by the scope of the schedule entry. However, it is seen that Schedule C of the MVAT Act,2002 has another entry 96 therein thus -

- (a) *Tractors, trailers, trolleys being agricultural tractors, trailers and trolleys, harvesters, attachments, parts, components, accessories, tyres and tubes thereof*
- (b) *When sold on or after 1st April, 2005, threshers and attachments parts, components, accessories, tyres and tubes thereof.*

Thus, agricultural tractors and trailers, though found in the same Schedule C are not clubbed with agricultural machinery and implements.

The first difference that we see between the two schedule entries A-1 and C-1 is that the former covers agricultural implements that are manually operated or animal driven. Both the schedule entries cover products which are used in agricultural operations except the ones which have been excluded from the scope of the schedule entry. With this understanding, I deal with the claim of the applicant thus :

As has been mentioned above, to satisfy coverage of a product under schedule entry A-1, it is needed that the product should be manually operated or animal driven. The present products operate on a motor. Being machine operated, it could not be said as being manually operated. The bills submitted for determination show that the applicant has sold the products alongwith the motor. The make and design of the products is such that they are designed to be operated with the help of a motor. The applicant has argued that the impugned products can be operated manually too and thus that the impugned products would not need a motor to function. A thing that is manually operated and the other that is run on a machine, both have a defined make and structure. I have seen the brochures of the impugned products. They bring out the features of the products. And highlighting the features is the USP of every product that is operated with the help of a machine. It is necessary to show how the use of the machine would prove helpful when switching on from the manual mode of doing things to the machine mode. This could be best understood when we look at the brochures describing the technical specifications thus :

**Gravity Separator**

For excellent separation of Low Grade Material from all types of seeds, grain & pulses

	AEI-3	AEI-5	AEI-7
Cap. (based on wheat)	1 to 1.5 TPH	2 to 3 TPH	3 to 4 TPH
Dynamically Balanced Fans	3	5	7
Size of Deck (mm) L x W	1560 X 790	2350 X 1060	3000 X 1200
Electric Motor	3HP 3 ph 1500 RPM 1HP 3 ph 1000 RPM	5HP 3 ph 1500 RPM 1HP 3 ph 1000 RPM	10HP 3ph 1500 RPM 2HP 3 ph 1000 RPM
Overall size (mm) L x W x H	2200 x 1200 x 1130	2720 x 1350 x 1480	3300 x 1350 x 1580

**Separator (Grader)**

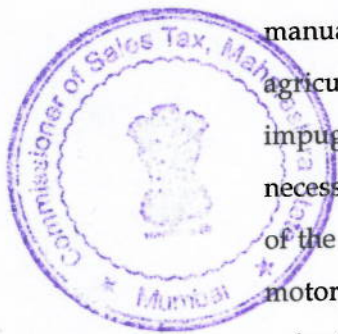
For excellent separation of fine cleaning & grading from all types of seed, grain & pulses

	AEI-1	AEI-2	AEI-3
Cap. (based on wheat)	1 to 1.5 TPH	2 to 25 TPH	3 to 4 TPH
Screen Size (mm) Top & Bottom	1830 X 915	2438 X 915	2438 X 1220
Dynamically Fan Size (mm)	760	1070	1070
Electric motor	6HP 3ph 1500 RPM	8HP 3 ph 1500 RPM	13HP 3 ph 1500 RPM



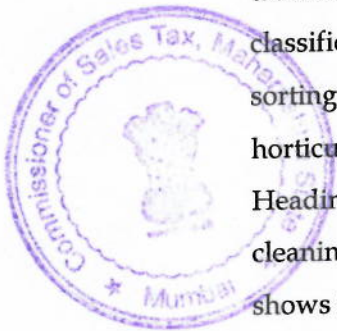
A look at the technical specifications reveals that the products have been designed to meet certain specifications. The fan size or the capacity in terms of tonnes per hour or the motor power in terms of rotations per minute are adjusted to bring about the intended output. The technical specifications of the impugned machines declare the capacity (based on wheat) from 1.5 tonnes per hour (TPH) to 4 tonnes per hour (TPH). This establishes beyond doubt that the impugned machines are designed for commercial/industrial operations. A product with specifications as such could not be said to have been designed to be put into motion by way of hand rotation. Doing so would mean that all the attempt to put into place a certain set of specifications in order to complete a job at a definite speed with a desired output was in vain. There is also the cost factor. When technology and scientific knowledge is used to design a product, it goes without saying that the same would be at a cost and further that such cost would certainly be more than the manually operated version of the same product. To illustrate, would be the mixer used for chopping and cutting. The activity can be done with the help of a knife too. However when done with a machine, the cutting could be done at speed, in large numbers and also of desired length and thickness. Though one does not write with a refill directly, it could be used to write. However, that does not mean that a person who has a pen would directly use the refill to write without inserting it in the pen. We could write with a refill but the same when put in a holder such as the pen could translate into ease and speed of writing. In the present case, to manually put the products into motion is unthinkable. Therefore, even if the applicant claims that the products could be put into use with hand movements, the purchaser of the products would certainly not use manual labour to operate a product obtained at a cost to him for the speed or output which it offers. Therefore, I am not inclined to accept the argument of the applicant that the impugned products are manually operated. The products with their technical specifications belie all claims that the same are manually operated. The prime requirement of the impugned schedule entry A-1 is that the agricultural implement should be manually operated or animal driven. However, the impugned products do not fit the said requirement. The situation being so, I do not find it necessary to ascertain if the products have been notified under the notification for the purposes of the impugned entry A-1. The impugned products are designed to operate with the help of a motor and it certainly, by no stretch of imagination, could be said to be manually operated or animal driven. These are meant to operate automatically. In view of all above, the claim in respect of schedule entry A-1 of the MVAT Act,2002 does not hold good.

Having seen thus, I now move on to ascertain the applicability of the other schedule entry and which is entry C-1. I have reproduced the entry above. It speaks of agricultural machinery and implements. It does not speak of a notification enumerating the products





covered therein. It, therefore, has to be seen whether the impugned products are agricultural machinery. In view of the prime requirement of manually operated or animal driven being not satisfied and the impugned products being machines, the question whether they are agricultural machinery was not discussed in the deliberations on the earlier entry. It is not doubted that the impugned products are machinery. The "Grader (Separator)" is used for excellent separation of low grade material from all types of seeds, grain & pulses and the "Gravity Separator" is used for excellent separation of fine cleaning & grading of all types of seed, grain & pulses. The immediate point which comes to our attention is that the grading and cleaning activities are done on seeds which is a produce of agriculture. It means that the seeds, grains and pulses have already been obtained by performing the agricultural or farming operations. The present activity of cleaning and grading is done on the produce which means that the agricultural operations have come to an end. The activities such as sorting and grading are done after the produce has been obtained and, therefore, fall under post harvesting operations. These are undertaken so as to make the agricultural produce market worthy. The use of speed and technology to differentiate between good and damaged produce is to obtain quality and market-ready produce. These operations are taken on a large scale and hence, the use of machines. Now, this market is not the primary market. Produce obtained from the farmers is being made ready for sale in the market by undertaking such activities. Post harvesting operations assume considerable significance as all produce obtained from the farm would not necessarily be of good quality all through. This aspect calls for operations such as cleaning, sorting and grading the produce. The point I intend to make is that products used for such type of operations cannot be called as agricultural machines. They come into picture after the agricultural operations are performed. These cleaning and grading machines are known as a distinct class of machines. My observations are confirmed when we see that these products are classified separately. Under the Central Excise system of classification, machines for cleaning, sorting or grading are classified differently than agricultural machines. Agricultural, horticultural or forestry machinery for soil preparation or cultivation are classified under Tariff Heading 8432 and harvesting or threshing machinery fall in Tariff 8433 whereas machines for cleaning, sorting or grading seed, grain fall in Tariff Heading 8437. What the Tariff treatment shows is that sorting and grading machines are identified and classified as a separate category. I understand that the impugned schedule entry is not based on classification under Excise. However, the above position was referred to show that sorting or grading activities are not clubbed under agricultural activities. My inferences find support from a decision of the Hon. Bombay High Court in the case of IBF Enviro 2 Systems v. Commissioner of Sales Tax, Mumbai (34 VST 284) wherein machines not directly related to agriculture were treated as not being agricultural equipments. The issue therein was whether bio-fertilizer equipment was





agricultural machinery. The entry under consideration was similar to the one I am dealing with in the present proceedings. The observations of the Hon. Court are worth reproducing -

*"The machine known as bio-fertilizer producing machine can hardly be said to be machine meant for agricultural machinery or implement. It is, no doubt, true that the said machine can be used for agricultural purposes but that by itself cannot be a criteria for deciding as to whether or not it is an agricultural machine. The said bio-fertilizer is, normally, sold to the sugar factories and not to agriculturists directly. If one turns to Schedule entry 1, Part I of Schedule C it reads as under :*

*Agricultural machinery and implements other than tractors, trailers, semitrailers, oil engines, electric motors, pumps, electric pumping sets, capacitors of all types & pipes of all type and implements specified in entry 1 of Schedule A.*

*A reading of the above entry makes it clear that tractors, trailers, semitrailers are excluded from the purview of the agricultural machine and implements. If that be so, then one thing is clear that the tractor, trailer, etc., are directly used in agricultural operations. If these types of machineries are excluded from the purview of the Schedule entry 1, Part I of Schedule C then the bio-fertilizer producing machine by no stretch of imagination can be said to be a machine falling under Schedule entry 1, Part I of Schedule C. The Tribunal has rightly observed that the purchaser was interested in purchase of composting machine and not soil treatment machine as now claimed by the applicant - assessee. What is sold is composting machine. It is, thus, nothing but a machine falling under the Schedule entry 135, Part II Schedule C attracting 13 per cent sales tax. The view taken by the Tribunal cannot be faulted.. "*

The present products are known as seed processing machines and not agricultural machines. It would also be worthwhile to refer to the case of Commissioner of Sales Tax v. Shetkari Sahakari Sangh Limited (35 STC 554) wherein the Hon. Bombay High Court reproduced the observations of the Division Bench of the very Court in Pashabhai Patel & Co. (P.) Ltd. v. Collector of Sales Tax, Maharashtra State ([1964] 15 S.T.C. 32) thus -

*"In that case it was further observed (at pages 34 and 35) :*

*"It is true that the entry does not say 'machinery used for the purposes of agriculture' and, therefore, actual use of the machinery for agricultural purpose need not be established, but then the person claiming that a particular machinery is an agricultural machinery must establish as a fact that the machinery conforms to the description of agricultural machinery. In other words, the dealer must establish that in the commercial world that particular type of machinery is understood as agricultural machinery. It has to be established that the particular type of machinery is generally and commonly used for the purpose of agriculture. Now, the facts found are not that tractors are generally or principally used for the purpose of agriculture, nor is there any finding that a tractor is understood in the commercial world as an agricultural machinery. On the other hand, the order of the Tribunal shows that a tractor is used where a large percentage of the available power is required as force rather than speed. The use to which the tractor is put is in pushing down trees, pushing large piles of dirt or rocks, or loading scrapers and operating up steep grades or against the high rolling resistance of soft roads. Tractor also is used for clearing and grubbing involving a complete disposal of all timber, roots, and brush from the vicinity of operations. It is also used for clearing small trees, for pulling or pushing loads, a power unit for winches and hoists and a moving mount for bulldozer blades, side booms and front-end bucket loaders..... It would be seen that the use of tractors is for many other purposes than agriculture. In short, a tractor is used wherever a large percentage of available power is required to be used and, in that sense, a tractor may also be used for the purpose of agriculture when for the particular purpose large percentage of power is required to be used. In other words, a tractor may be brought in use for large scale agriculture, but the evidence discussed by the Tribunal and to which we have made a reference in brief, shows that the principle and primary use of a tractor is not for agriculture."*

Thus, it can be seen that though the machine was used for agricultural purposes, in view of the specific setting of the entry, the same was not considered as an agricultural machinery. The present product is not even an agricultural machine as it is used to sort and grade the produce to be sold in the market. Machines of the type as the present one are used for





commercial purposes.

I would refer herein to yet another decision. The Hon. Maharashtra Sales Tax Tribunal (Hon. MSTT) in M/S. Bajaj Steel Industries Ltd. v. The State Of Maharashtra (1994-(009)-MTJ-0261) was concerned whether "Bajaj Double Roller Cotton Gins" and "Bajaj Kappas Opener" are agricultural machines. The Hon. MSTT deliberated on what are agricultural machines and preferred to follow the decision of the Hon. Bombay High Court in Shetkari Sahakari Sangh Limited (cited supra). It was specifically argued before the Hon. MSTT that even post-harvesting operation for making the goods better marketable are now the agricultural operations. The relevant observations could be seen thus -

*"What is done in the factory is, perhaps, processing of agricultural produce and not agricultural operation. There are several factories and industries engaged in processing or agricultural products of different kinds. These food processing Industries of agricultural produce processing Industries cannot be said to be engaged in agricultural operations. They are not so intimately connected with agriculturists itself though they are run on the produce supplied by the agriculturists. What is produced by the agriculturists is a raw material for these processing units. These units cannot be said to be agricultural in character. They are industrial and not agricultural in character.*

*.....  
As already stated, it seems to us that these machines are used in commerce or industry but not in the agriculture. It may be stated again that processing of agricultural produce starts after the produce is removed from the fields by the cultivators. There is hardly any agricultural operation thereafter. Whatever operations are carried out on the produce thereafter are the operations of processing the agricultural produce. Nature of these operations or character of these operations cannot be said to be agricultural one; but it will be either commercial or industrial. We cannot agree with the submission of Mr. B. C. Joshi, that wider meaning should be given to the agricultural machinery so as to include the machinery used for processing agricultural produce."*

Thus, it can be seen that the Hon. Courts and Tribunals have been consistently laying down the ratio that agricultural operations would not include post harvesting activities as well as activities meant for commercial exploitation of the agricultural produce. The meaning as propounded by the Hon. Courts has been reflected even in the statutes. This can be confirmed when we refer to the definition of 'agricultural produce' as found in the Finance Act,1994 :

*"agricultural produce" means any produce of agriculture on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market;*

Without deliberating any further and in keeping with all above, I have absolutely no hesitation to hold that 'agricultural machines' as understood by the impugned schedule entry C-1 would not include machines which cater to post harvesting activities. The impugned products fall in the post harvesting group of products and therefore, would not be covered by the scope of schedule entry C-1 of the MVAT Act,2002.

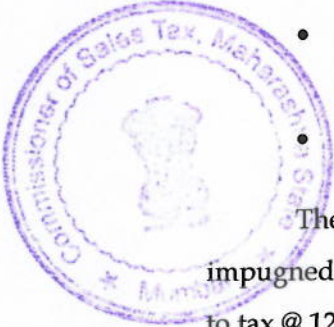
The applicant may argue that in the notification for the purposes of the schedule entry A-1 of the MVAT Act,2002 for agricultural implements that are manually operated or animal driven has notified 'Seed grader' at sr. no.68 thereof. To deal with this argument, I have to state that the prime requirement of the said schedule entry A-1 should not be lost sight of. It is for



agricultural implements that are manually operated or animal driven. Therefore, the products as are notified therein have the essential character of being operated by hand as by the farmers themselves using such products on the fields. Further, manual use of the 'seed grader' also signifies that it is not being done on a large scale as is the case when used for commercial purposes characterized by the use of 'speed'. The seed grader under schedule entry A-1 would, as the Finance Act says, be for manual operation to make the produce ready for the primary market. The seed grader as found notified under schedule entry A-1 is not the one as used outside the fields after close of the agricultural operations to make the produce commercially marketable. Therefore, argument in respect thereto would not survive.

In view of all above discussion, I summarize my observations thus :

- *To be called an 'agricultural machinery', the primary use of the machines should be for agricultural operations*
- *Hon. Courts and Tribunals have ruled that agricultural operations would not include post harvesting activities as well as activities meant for commercial exploitation of the agricultural produce.*
- *The definition of 'agricultural produce' in the Finance Act and the classification under Central Excise echo the common understanding as also the principles as laid down by the Hon. Courts..*
- *The impugned machines are used for processing agricultural produce. Such activities are commonly known as post-harvesting activities.*
- *The impugned machines are not ordinarily and commonly used in agricultural operations by the farmers.*
- *The impugned machines are designed for commercial/industrial operations.*



There is no specific schedule entry under the MVAT Act,2002 which covers the impugned products. Therefore, they find placed in the residuary schedule entry, thereby liable to tax @ 12.5%.

#### 05. PROSPECTIVE EFFECT

The applicant has prayed for prospective effect if the contention as made is not acceptable. As in every case of deciding upon the plea of prospective effect, I would have to ascertain whether there is any ambiguity in the provisions or any circumstances leading to dispute or any statutory mis-guidance. None of these conditions are found fulfilled in the present case. We have seen that the schedule entries were clear in their import. Further, there were case laws which expounded upon what were agricultural machines. The position as



found in other statutes also made clear the scope of the entry for agricultural machines. Moreover, the impugned products are commonly known as seed processing machines. There should have been no difficulty in appreciating the stage at which the machines are put to use. So also the capacity of the machines in terms of TPH as being used for commercial operations should not have been missed upon. There is no case law to have misguided the applicant into believing that the impugned machines are 'agricultural machinery'. Hence, the request for protecting liability till the date of order in case of adverse order is not found justified. Thus, the attending circumstances do not make out a case, for favourable consideration of the prayer for prospective effect. In view of all above, I am not inclined to accept the request for prospective effect.

06. In the circumstances, it is determined thus -

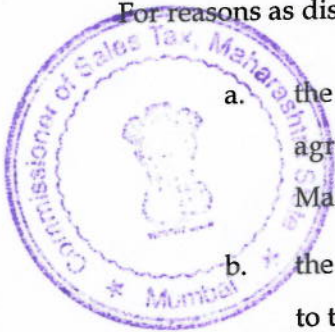
**ORDER**

(u/s 56 (1)(e) of the Maharashtra Value Added Tax Act, 2002)

No. DDQ 11/2013/Adm-6/22/ B- 1

Mumbai, dt. 5/12/2015

For reasons as discussed in the body of the order, it is herewith determined that -



- a. the products "Grader (Separator)" and "Gravity Separator" are not agricultural machinery as understood by schedule entry C-1 of the Maharashtra Value Added Tax Act, 2002.
- b. the impugned products fall in the residuary schedule entry, thereby liable to tax @ 12.5%.
- c. request for grant of prospective effect to the determination order is rejected.

(RAJIV JALOTA)

COMMISSIONER OF SALES TAX,  
MAHARASHTRA STATE, MUMBAI