

Read: 1. Application dt.25.04.2013 for Determination of Disputed Question by M/s. The Brihan Maharashtra Sugar Syndicate Ltd.
 2. Determination order No.DDQ-11/2013/Adm-6/23/B-4 Mumbai, dt.20.10.2014 in the case of the above applicant.
 3. Hon. Maharashtra Sales Tax Tribunal order dt.09.03.2016 in VAT Appeal No.1153 of 2014 in the case of the above applicant.
 Heard: Sh. P. C. Joshi, Advocate.

PROCEEDINGS

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

No.DDQ-11/2013/Adm-6/23/Remand-2016/B-4

Mumbai, dt.22.03.2017

A determination order No.DDQ-11/2013/Adm-6/23/B-4 Mumbai, dt.20.10.2014 was passed in the case of the applicant, M/s. The Brihan Maharashtra Sugar Syndicate Ltd. determining as follows :

"The questions posed for determination are answered thus :

1. *The Business Transfer Agreement and the Transfer of Licenses Agreement present a transaction for transfer of business. Though the transaction represents a transfer of business, the split-up of the consideration as available from the Agreements would render the transaction to the extent of the consideration received on account of the movable assets to be a 'sale' of goods for the purposes of the Maharashtra Value Added Tax Act, 2002.*
2. *As per the facts as disclosed by the applicant, the sale price for the transaction would be Rs.42.12 crs. The amount of Rs.42.12 crs. is amenable to tax as per the following Table -*

Particulars	value	Schedule Entry	Rate of Tax
Plant & Machinery	11,65,00,000	E-1	12.5%
Furniture & fittings	25,00,000		
Equipments	10,00,000		
Vehicles	20,00,000		
Goodwill	10,00,00,000	C-39	5%
Manufacturing Licenses	16,80,00,000	A-27	Nil%

Particulars	value	Schedule Entry	Rate of Tax
ENA	1,12,70,562.18	D-4	20%
Rectified spirit - 9 Years old	25,89,550.00		
ENA	21,19,669.89		
Malt Spirit (67 OP.) - 2 years old	97,64,235.07		
Peated Malt spirit 8 years old	10,70,870.14		
High Bouquet malt spirit 4 years old	4,98,184.23		
Grape Spirit (67 OP.)	1,06,221.92		
Cane Juice Spirit (67 OP.) - 2 years old	10,318.22		
Sulphur	80,000.00	E-1	12.5%
Molasses	36,95,035.50	D-4	20%

An appeal against the determination order was preferred before the Hon. Maharashtra Sales Tax Tribunal (Hon. MSTT) by the applicant. The same was decided through order dt.09.03.2016 in VAT Appeal No.1153 of 2014 whereby the aforesaid determination order was set aside to record findings regarding items included in Schedule '2' which pertains to 'plant and machinery'. The observations of the Hon. MSTT could be reproduced thus -

*"14. We have carefully gone through entire record. The value of plant and machinery, which is shown by the appellant in the agreement is 11.65 crores. According to the appellant, it is part of immovable property. According to revenue, it is movable property, and therefore, "goods". In the Business Transfer Agreement dated 16/12/2010, on page-3, description of assets is given in following terms :
 "Assets" shall mean all property, assets, benefits and rights of the Seller relating to the Business, (a) benefit of the Permits as set out at Schedule "1", (b) the plant and machinery as set out at Schedule "2", (c) the furniture and fixtures, vehicles and equipment as set out at Schedule "3", (d) the intangibles including the Intellectual Property described at Schedule "4", the benefit of all contracts relating to the Business listed at Schedule "5"; (f) Inventory such as raw and packing materials, finished goods, stock in process, imported concentrates, molasses Rectified Spirits, Extra Neutral Alcohol, Malt Spirit, Grape Spirit, Cane Juice Spirit, Maize Spirit as set out at Schedule "6" ("Inventory")."*

Careful perusal of the entire record goes to show that Schedule-2 is not forming part of the record.

15. The word "goods" is defined by Section 2(12) of MVAT Act in the following terms :

"goods" means every kind of movable property not being newspapers, actionable claims, money, stocks, shares, securities or lottery tickets and includes live stocks, growing crop, grass and trees and plants including the produce thereof including property in such goods attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale;

16. We fail to understand in the absence of Schedule-2, and without recording any findings what was the intention of the parties regarding items included in Schedule '2'; how the learned Commissioner of Sales Tax was able to decide the determination application filed by the appellant. We are of the firm opinion that without examining Schedule '2' as described in the agreement, it is not possible to decide whether the order of determination passed by the learned Sales Tax Commissioner is correct or otherwise. There is no propriety in examining other arguments advanced by the parties before us. In this view of the matter, we pass the following order :

ORDER

VAT Appeal No. 1153 of 2014 is partly allowed. The Determination Order passed by the learned Commissioner of Sales Tax dated 20/10/2014 is quashed and set aside. Matter is remanded to the learned Commissioner of Sales Tax, for recording findings in the light of observations recorded above."

The present proceedings, therefore, are in pursuance of the aforesaid order of the Hon. MSTT.

02. A hearing in the matter was scheduled on dt.16.11.2016. Sh. P. C. Joshi (Advocate) attended the hearing. The proceedings during hearing are thus -

- He submitted that
 - The proceedings have been remanded only for examining Schedule 2 for arriving at the rate of tax decided earlier on plant & machinery.
 - All movables incidental to the transfer of business would not be taxed in absence of any agreement separately for such movables for sale thereof.
- A copy of Schedule-2 is given.

- His attention was invited to the decision regarding immovable / movable property of the Hon. Supreme Court in Commissioner of Central Excise, Ahmedabad v. Solid and Correct Engineering Works [(2010) 5 SCC 122]. In response thereof, it was submitted that a written submission would be given in the matter. Accordingly, submission dt.22.11.2016 was furnished on dt.23.11.2016. The same is reproduced thus :

"At the time of hearing of the above determination application on 16th November, 2016 my attention was drawn to the Supreme Court Judgment in the case of Commissioner of Central Excise, Ahmedabad Vs. Solid and Correct Engg. Works (2010) 5 SCC 122.

2. I have perused the said judgment and my comments are submitted herein. Before I do so I may bring your kind notice that the photographs submitted on record depict the complete overview of the plant and machineries involved in the distillery business that were transferred to M/s. Brima Sagar Maharashtra Distilleries Ltd. After considering the pictorial scenario you would appreciate that the land, building and the entire existing plant in running condition was agreed to be transferred to the said company.

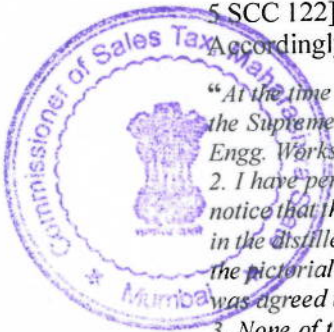
3. None of the part of the plant so transferred was ever fitted with nuts and bolt only for the purpose of avoiding vibration especially because the entire distillery business involve several integrated simultaneous activities and processes at different level all throughout the factory in question. The entire plant which was erected several years back right from 1982-83 continued uninterruptedly by manufacturing liquor that was sold by the applicant during all those years. The installation and erection completed in the past was in such a manner that none of the part thereof can be severed or removed separately without damaging it because each of such part of the plant had become the part of the land which was also transferred alongwith the liquor business as per the agreement placed on record.

4. It was in that scenario I had argued before the tribunal that the plant and machinery that was transferred was not movable property but immovable one and therefore was outside the scope of MVAT Act. It may also be recalled that the consideration of Rs.39 crores included the entire property except the land, for which under the Registration Act a separate conveyance was prepared for the value of Rs.11 crores. The total consideration agreed between the parties was Rs.50 crores for the transfer of entire liquor business and there was no separate agreement or consideration for sale of individual items described in the said agreement.

5. In view of the above peculiar facts when considered with the photographs on record it would be crystal clear that the judgment in the case of Solid and Correct Engg Works is not applicable to the present case.

6. My comments thereon is as under:

Very first para of the judgment referred to the fact that the controversy in appeal before the Supreme Court was on



the factual backdrop of the case.

7. The precise controversy under determination before the Supreme Court have been mentioned in Para 8 as under :
"8. We have heard Mr. P.P. Malhotra, learned Additional Solicitor General for the appellants and Mr. S.K. Bagaria, learned senior counsel for the respondents at length. Two questions in our opinion arise for our determination: (1) Whether setting up of an Asphalt Drum Mix Plant by using duty paid components tantamount to manufacture of excisable goods within the meaning of section 2(d) of the Central Excise Act, 1944 and (2) whether the respondents engaged in the manufacture of parts and components used for setting up of Asphalt Drum / Hot Mix Plant were entitled to the benefit of Notification No.1/93 – CE, dated 28th February, 1993 issued under sub-section (1) of Section 5A of the Central Excise Act, 1944 as amended from time to time?

8. In Para 13 of the judgment, the assessee submitted that the plants having been permanently embedded in earth ceased to be excisable goods.

9. After considering the meaning of movable and immovable property; in para 18 the court observed that the plant in question was not immovable property per se especially because the attachment to the earth through foundation was not permanent and was easily detachable from the foundation.

10. In para 20 the basic principle which is also applicable to the present case have been stated to the effect that if the attachment of the plant to the foundation was meant for permanent beneficial enjoyment of either the foundation or the land in which the same was embedded, it would be treated as immovable property. The observations from the court of appeal under English Law was advantageously reproduced in which it was emphasized that the degree and nature of annexation was an important element and if the attached chattel cannot be removed without great damage to the land, the intention would be that annexure was intended to be the permanent part of the land.

11. In para 23, the Hon'ble Supreme Court observed that the plant before it was attached to the foundation by nuts and bolt and therefore cannot be termed as immovable property. In para 24 again the apex court summarised the test to be applied and the reason thereof. None of the test and reasons mentioned therein was applicable to the present case in as much as the entire distillery plant was transferred on as is where is basis as running concern. The photographs also indicate the entire plant and buildings in which the machinery grouted were so installed / erected for the permanent enjoyment of the land in question.

12. The plant and machinery in the present case were never intended to be dismantled nor could such running condition plants be sold in the market and therefore the entire plant and machinery transferred as a part of one consideration of Rs.39 crores was part and parcel of the basic intention of the parties to the agreement to transfer the business as a whole including the land on which the plants and buildings were constructed or erected. The consideration for land was also a part of total consideration of Rs.50 Crores but had to be evaluated separately for the purpose of registration of the documents.

13. I may repeat that the entire plant including the various parts thereof were erected in such a manner that the same became permanent structure embedded to the earth. The entire plant of manufacturing liquor consisted of various sections spread over the large portion of land with a specific and earmarked function in the integrated activity of manufacturing liquor.

14. The judgment in the case of Solid and Correct Engg Works, pronounced on its own peculiar facts before it, will have no application to the facts that prevailed in the present case admittedly involving the transfer of business as a running concern. In order to have better appreciation I annex hereto a note prepared by the applicant describing in detail the manner in which each section of the unit were fixed on the RCC Foundation meant for permanent use of the entire plant as one unit for manufacture of liquor involving various stages right from storage of molasses, its fermentation through several tanks and yeast vessels fixed at the distillery house. After the fermentation and distillation the material travel through boiler, oil tank, water tank and bio gas plant. From the bio gas plant power was generated that used for running of other machines.

15. As explained in the note, the entire installation and erection was undertaken with the prior permission from various Govt., authorities mentioned therein. It is worthwhile to note that the plant, machineries and tanks once became the part of the whole plant as per rules and regulations and directions by Govt., authority, they cannot be moved much less removed.

16. In view of the above submissions especially in absence of any separate agreement for the sale of other movable capital assets none of them be determined to be falling within the tax net of MVAT Act and not liable to any tax on the back ground of section 44(4) of that Act.

Note on Plant & Machinery

- 1) Distillery – Molasses storage tanks, fermentation house comprising of pre-fermenters, Fermentation Tanks, Yeast vessels, weighing scales and other intermediate tanks & other accessories are fixed & grouted on RCC foundation.
Also Distillation House comprising Wash Column, Rectifying column, Exhaust columns of Rectified spirit plant & extra Neutral alcohol plant, Spirit storage tanks are fixed on RCC foundation.
- 2) Pot-still Distillation Unit comprising of Fermentation Tanks, with accessories, Pot-stills Mash ton with process vessels are grouted on RCC foundation.
- 3) Boiler house comprising of boiler, oil tank, water tank, filters with accessories are fixed on RCC foundation.
- 4) Bio-gas plant comprising of bio-digesters, with gas blowers, & other accessories are fixed on RCC foundation.
- 5) H2s scrubber comprising of Reaction tank, scrubber, gas holder with other accessories are grouted on RCC foundation/structure.
- 6) Power generation unit comprising of gas engine, with accessories installed on proper RCC foundation.

Prior to installation & erection of plant & machineries the proper permissions from various Govt. authorities liker Jt. Director, of Industrial safety & health, commissioner of state excise, Maharashtra Pollution control board have been obtained and plant operation is started. Hence all machineries and tanks are set up.

The orientation of plant machineries and tanks cannot be changed once they are fixed while erecting the

plant as per rules & regulations as directed by Govt. authorities. Civil foundation (RCC) of the plants & machineries are firm & fixed as per drawings & design which are approved by various Govt. bodies and can not be moved. If they are moved from their position or dislocated, they cannot be utilized for process & are to be scrapped after dismantling."

03. OBSERVATIONS

I have reproduced hereinabove the directions with which the determination order No.DDQ-11/2013/ Adm-6/23/B-4 dt.20.10.2014 was passed in the case of the applicant, M/s. The Brihan Maharashtra Sugar Syndicate Ltd. (TBMSL). In terms thereof, I have to record my findings with regard to Schedule 2. Before I move on to record the same, let me reproduce hereinagain, the order of the earlier Commissioner :

"The questions posed for determination are answered thus :

1. The Business Transfer Agreement and the Transfer of Licenses Agreement present a transaction for transfer of business. Though the transaction represents a transfer of business, the split-up of the consideration as available from the Agreements would render the transaction to the extent of the consideration received on account of the movable assets to be a 'sale' of goods for the purposes of the Maharashtra Value Added Tax Act, 2002.
2. As per the facts as disclosed by the applicant, the sale price for the transaction would be Rs.42.12 crs. The amount of Rs.42.12 crs. is amenable to tax as per the following Table -

Particulars	value	Schedule Entry	Rate of Tax
Plant & Machinery	11,65,00,000	E-1	12.5%
Furniture & fittings	25,00,000		
Equipments	10,00,000		
Vehicles	20,00,000		
Goodwill	10,00,00,000	C-39	5%
Manufacturing Licenses	16.80,00,000	A-27	Nil%

Particulars	value	Schedule Entry	Rate of Tax
ENA	1,12,70,562.18	D-4	20%
Rectified spirit - 9 Years old	25,89,550.00		
ENA	21,19,669.89		
Malt Spirit (67 OP.) - 2 years old	97,64,235.07		
Peated Malt spirit 8 years old	10,70,870.14		
High Bouquet malt spirit 4 years old	4,98,184.23		
Grape Spirit (67 OP.)	1,06,221.92		
Cane Juice Spirit (67 OP.) - 2 years old	10,318.22		
Sulphur	80,000.00	E-1	12.5%
Molasses	36,95,035.50	D-4	20%

I have to categorically observe herein that the aforesaid determination order is being remanded to record findings only in respect of the value of the plant & machinery of Rs.11.65 crores which is disputed on the ground that the same being immovable wouldn't attract any tax.

The tax liability as respects the other items of the two Tables in the Determination Order has not been found fault with. In view thereof, I proceed thus -

In the determination order which has been remanded, it has been observed that -

- The Business Transfer Agreement (BTA) dt.16.12.2010 is for a consideration of Rs.39 crs. The break-up of this consideration was available in Annexure C thereof, as being for the following :

Plant & Machinery	Rs. 11,65,00,000/-
Furniture & fittings	Rs. 25,00,000/-
Equipments	Rs. 10,00,000/-
Vehicles	Rs. 20,00,000/-
Goodwill	Rs. 10,00,00,000/-
Manufacturing Licenses	Rs. 16.80,00,000/-
Total	Rs. 39,00,00,000/-

- The Land and Building is sold for a consideration of Rs.11 crs. by a separate Sale Deed dt.21.01.2011.
- The Permits are transferred in the name of Brima Sagar Maharashtra Distilleries Limited (BSMDL), the Purchaser, by a separate Agreement dt.29.11.2010 and the consideration therefor is shown at Rs.16.80 crs. This amount is included in the consideration of Rs.39 crs. as per the BTA.
- The consideration received on account of sale of Land and Building is not included in the consideration as per BTA but it is included in the break-up of consideration as per the Resolutions of the Board of Directors as under :

Land	6.35
Building	4.65
Plant & Machinery	11.65
Furniture & Fittings	0.25
Equipments	0.10
Vehicles	0.20
Goodwill	10.00
Manufacturing Licenses	16.80
Total	50.00

- As per the Business Transfer Agreement (BTA), the Seller (TBMSSL) has agreed to sell and the Purchaser (BSMDL) has agreed to purchase the **Business**.
- Purchase Price is defined as payable in respect of the 'Business', excluding the price of Inventory. It means purchase price is for Assets (excluding Inventory), Employees, Liabilities and Liens.
- 'Business' is defined as – "means Assets, Employees, Liabilities and Liens".
- 'Assets' are defined as – "mean all property, assets, benefits and rights of the Seller relating to the Business, (a) benefit of the Permits as set out at Schedule "1", (b) the plant and machinery as set out at Schedule "2", (c) the furniture and fixtures, vehicles and equipment as set out at Schedule "3", (d) the intangibles including the Intellectual Property described at Schedule "4", (e) the benefit of all contracts relating to the Business listed at Schedule "5", (f) Inventory such as raw and packing materials, finished goods, stock in process, imported concentrates, molasses Rectified Spirits, Extra Neutral Alcohol, Malt Spirit, Grape Spirit, Cane juice Spirit, Maize Spirit as set out at Schedule "6" ("Inventory")."

Thus, we see that in the definition of 'Assets', there's a reference to the Schedule 2 for the study of which the aforesaid determination order dt.20.10.2014 has been remanded. As can also be seen, the Schedule 2 is about 'plant and machinery'. From the copy of the Schedule 2 as made available by the applicant, it is seen that year wise details are available. The name of the party from whom purchased is mentioned alongwith the details of purchases. There is no mention of the amount or price against any detail, except in a few cases. The relevant details as found in the Schedule 2 are reproduced in the Table below thus :

Schedule – 2

Details of Immovable properties

Sr. No.	Accounting Year	Product Description
Plant and Machinery - Distillery		
1	1982-83	WASP Brand, CPB Centrifugal Chemical Pump without Electric Motor with Base, flexible couplings, couplings Gards & foundation bolts. Two Cycle Vaccum Pump with accessories
2	1983-84	Kirloskar Make 200 KVT/160 KVT Diesel Generating Set With Kirloskar make 200 KVT Alternator (MC NO.84305 AC-67) Kirloskar Make Engine Sr. No. 25138847 One Control pannel, one Fuel tank and two batteries
3		DCP Type 115 X 1.5 X1.5 GM material Centrifugal Pump with suction Delivery and Motor
4	1985-86	Diesel Generating Set With Standard accessories comprising Valve, Control pannel, Fuel Tank Base Plate & Frame batteries
5		One Air Compressor, Auto Services Unit with Single Phase Motor and Standard Accessories.

6	1986-87	KCB make KDP 272/8 with D-103/9.5 BHP motor with pannel Board Starter, Cable etc.
7	1987-88	Kirloskar Cummins Engine Model NTC 495-G with Rediator and accessories Engine No. 25157312 Kirloskar, 125 Kva alternator , 12 Volts battery (Dry) 2 nos. panel with KW & KWH Meter, Base Plate and fuel Tank, Foundation Bolts.
8		Techno Spark Portable Kayway Milling machine model TPKN 16250 Complete with metal carrying case 1.5 HP Universal Motor Single Phase 230 Volt, 5.5 Amps with Built in Electronic speed Control Bar Clamp for shafting upto 115 0 & chain clamp for shafting upto 2500 with set of Standard inches size slot drills.
9		TOVAC Vaccume pump (Air Blower for MB-1000) conductivity meter with alarm
10		Purewat mixed bed Demineraliser –MB 1000
11		3 Nos Of MS Tanks of 25,000 Ltrs. Capacity.
12		M.S Tanks of 3,600 Ltrs Capacity 2 Nos. M.S. Tanks of 1200 Ltrs Capacity 1 No. Acid Proof lining for above 3 tanks
13		One Stainless Steel Tank of 5,445 Ltrs. Capacity, Acid Proof lining.
14	1989-90	Molasses Tank
15		Spectrophotometer
16		Submersible Water Pump
17		Temprature Scanner
18		Chain Pully Blocks 5 Nos
19	1990-91	Spent Wash Treatment Plant Membrane Plant For pretreatment of Distillery Spent Wash. Capacity 10M.T. with Micro/Auto Filtration unit REP licenses Technical Consultancy charges for Pilot R & D system Various chemicals used for commissioning the plant Other civil expenses
20		BIO-GAS PLANT Fabrication, erection & supply of one module to treat spent wash to produce Membro-Gas & reduce BOD of spent wash Cost of civil material & other exps
21		Double geared drill machine with spindle speed cap 1.5" Hydraulic Heecksaw machine with electric motor
22	1991-92	Interest on loan From T.D.I.C.I. for the period upto 24-3-1991 (i.e. upto the date of commissioning of the Bio-methanation Plant on 25-3-1991) which remained to be capitalized during 1990-91
23		Pressure Line filters with DP switches piston type S.S. Body, BB Motor 1 HP Differential pressure Gauges, switches Teflon hoses with SS 316
24		Imeco Ultrasonic Cleaning System Type 1 S-120 W, No.3036
25		BIR 1419 PJSL 1671 AE Dimmer Stat Type 10 D- IP, 10 Amps, Portable, One Phase AC, 50 HZ, enclosed type, Sr.No. 1290/25495
26		Elektra BOD Incubator (0.5 degree Celsius)
27	1992-93	Colling Tower FRPAQUA Model 3841 5 HP Electric Motor for new Cooling Tower
28		Fabrication of Spirit Storage Tank 160 KL.
29		Transport charges
30	1993-94	Prithvi Make Hecksaw Machine with Electric Motor and Accessories. Effluent Treatment Plant Design, Construction/fabrication, Supply erection, testing, commissioning and including all necessary civil, Mechanical, Electrical and Instrumentation work etc. complete on a Turn Key Basis for the Methane Recovery Anaerobic Digestive System Plant for Distillery Spent Wash with one Digester completed. Labour charges incurred during 92-93 Total Interest Paid to IREDA Upto 15.3.94 Loan Documentation Charges Allocation through Civil Department (Consumption Statement)
31		BIR 667 PJSL 693 Spirit Measures attached to Weighing Measures Machine Measures, 1000 Ltrs Capacity and 200 Ltrs Capacity
32		Service Water Pump , Kirloskar Make Type 4 UP 3. Discharge: 35.8 lps. Head : 30.5 Meter, Speed : 1450 Rpm. Bare Shaft Pump with C.I. Impeller suitable for above duty points.
33	1994-95	Effluent Treatment Plant Design, Construction/fabrication, Supply erection, testing, commissioning and including all necessary civil, Mechanical, Electrical and Instrumentation work etc. complete on a Turn Key Basis of Second Digester for Methane Recovery Anaerobic Digestive System Plant for Distillery Spent Wash completed. Labour charges for the above. Plant Cabling and Motor Connection Charges [Date of Commissioning 1.3.1995]
34		BIR 1669 PJSL 2327 380 KVA Diesel Generating Set Comprising of Kirloskar Cummins Make Model KTA 1150 G1 engine coupled to KEC make 380 KVA alternater both mounted on a common base frame through a pair of flexible coupling with control panel mounted on a base fuel tank 12 Volt Batteries with leads and all other accessories. Labour charges for the above. Transport charges for the above. Battery Charging Expenses Bank Interest up to 28.3.1995



		[Date of Commissioning 28.3.1995] Installation and Commissioning Charges of D.G.Set added during the year 1995-96
35	1995-96	Yeast Separator DX 409 Yeast Separator with 30 HP Motor Alfa Laval Plate Heat Exchanger Yeasty Cream Funnel and Sulphuric Acid Dosing Pump Electricals Electricals Travelling Trolley & Chain, Pulley Block, Pipes & Fittings and Instrumentation. Pipes & Fittings Yeast Transfer Pump Sulphuric Acid Day Tank, Capacity 500 Ltrs. Strainer Pipe Supports Pipes and Fittings Motor for Yeast Transfer Pump Instrumentation Pipes and Fittings Fermented Wash Cooling Pump Fermented Wash Cooling Pump Pipe Supports Wash Feed Pumps SS 316 with Motor Pipes and Fittings Erection and Commissioning Charges Supervision work of Foundation and Civil Transport Charges. Other Charges Complete Civil Work for Yeast Separator Armoured Cable & civil Exps Labour charges for excavation for wiring from Transformer to Yeast Separator Labour charges for making new panel boards, wiring, cabling etc. Adhesive Stamps for ICICI Loan Documents Bank Int. till the date of Commissioning Bank Commission till 1.3.1996 (Date of Commissioning 1.3.1996)
36		Pot Still - 10,000 Ltrs. 10,000 Ltrs. Charging Capacity Wash Pot Still. Erection & Commissioning Charges Complete Civil Work for the Pot Still Supervision Work of Foundation and Civil Transport Charges Adhesive Stamps for ICICI Loan Documents Bank Int. till the date of Commissioning Bank Commission till 20.3.1996 (Date of Commissioning 20.3.1996)
37		Pot Still - 5,000 Ltrs. 5,000 Ltrs. Charging Capacity Wash Pot Still Product Safe for 5,000 Ltrs. Copper Pot Still Doubler Unit for 5,000 Ltrs. Capacity Pot Still Erection & Commissioning Charges Complete Civil Work for Pot Still Supervision work of Foundation and Civil Transport Charges Octroi Charges Adhesive Stamps for ICICI Loan Documents Bank Int. till the date of Commissioning Bank Commission till 20.3.1996 (Date of Commissioning 20.3.1996)
38		ELGI make Air Compressor, Model LG 200 B with 3 Phase electric motor and starter with all standard accessories Transport Charges
39		Kirloskar make Monoblock Pump Set Type : KDS 550 ++, 5 HP
40		Molasses Pit Construction for Extension of Ramp for Molasses Tank, Providing Gutter to Molasses Tank etc. (Date of Commissioning 1.3.1996)
41	1996-97	Agro Make Stabiliser Servo Controlled 3 PH -4 Wire- Oil cooled 180 KVA-250 AMPs Input-320 to 460 Volt Output - 415 V + - 1% with Ammeter, LT & Selector Switch 1 No.
42	1997-98	Kirloskar make KPD50/16-Q pump in all CF8M material with M.S.Base, coupling, coupling Gaurd and set of foundation Bolts with 9.3 KW Pump Sr. No. : 1371196120 Motor No. : GA 115104-126

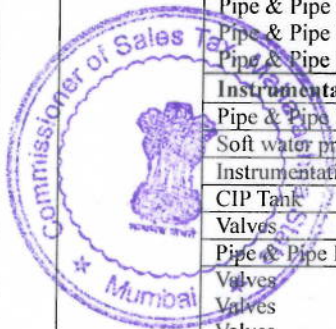
43	De-Super heating System Mach, Access
44	Temperature Control System
45	BIO GAS PLANT Bio-Gas Plant Work Foundation in murum 1488.64 Cum. Foundation in hard strate with spoil lead Providing and filling rubber stone 789.58 Providing and laying plain Cement concrete Providing R.C.C. raft foundation for wall Providing and constructing U.C.R's Massons Pillars at even 10 ft. in C.M.(1.4) 603.84Cum Providing cement pointing Providing and laying plain cement concrete (1.2.4) caping over top of U.C.R. Wall Providing and fixing steel angle Providing and laying murum filling Providing steps for retaining wall Providing ramp Providing Plaster Providing and fixing galvanized barbed wire fencing, 13 rows P.V.C. Pipe P.V.C. Pipe & Pipe fitting material P.V.C. Pipe and Pipe Elbow etc. P.V.C. material P.V.C. Pipe (Work completed on 27-9-1997)
1998-99	Secondary Treatment Plant : PP Flange as per BS 10 Table F with Nut bolts size 4" 4 Nos. PP Flange as per BS 10 Table F with Nut bolts (H.T.) Size 6" 4 Nos. Normex make Ball type foot Valve threaded end Size 4" 1 No. MS base plate coupling foundation balls MCC panel Transport charges Visit charges paid for STP Plant Kiloskar Make 5 HM 50/26 MB Pump 2 Nos Visit charges paid for STP Plant Erection & Commissioning of Mechanical Equipments PVC Pipe & Fitting material Electric Material Fitting charges Electric Fitting charges Secondary Treatment Plant Equipment for 20 HP fixed Aerators 2 NOS. and Kiloskar make Electric Motor 5 HP 14560 RPM 440V, 50HZ Interest on loan funds utilized for above purchases C.I. Bend Rubber Ring, C.I. Pipe etc. 8" x 90 C.I. Rubber Ring Interest on loan funds utilized for above purchases Transport Charges of clarifiers, Voltage areators Interest on loan funds utilized for above purchases Construction S.T.Plant Tank aerators Civil Work Interest on loan funds utilized for above purchases I,II & Final Construction Bill Interest on loan funds utilized for above purchases Interest on loan funds utilized for above purchases Construction Sludge Pump for S.T.P. Plant Civil Work Construction of Primary Clarifire, Job work Interest on loan funds utilized for above purchases Construction of secondary Clarifirejob work Interest on loan funds utilized for above purchases Voltas make 10 HP fixed aerators 2 Nos and 6.5 m calrifire 2 Nos. Interest on loan funds utilized for above purchases W & WW services E.T.P.stability certificate Fee Material issued through stores during the year 197-98 detailed statement filed in store consumption file for the year (Cement,Dubber & Brix etc.) Material issued through stores during the year 197-98 detailed statement filed in store consumption file for the year (Consumable stores MS Plates, Angles, G.I. Pipes etc.) Consultancy Charges (Stores consumption statement) R.C.C. Slab for Reactor bottem (St Plant) (Stores consumption statement through Civil Department) Civil Store material such as Cement, Sand, Bricks, Angle etc. Store material as per consumption statement

		Factory Trial Balance Civil Bills for work done in respect of Secondary Treatment Plant through our Civil Department. Details filed separately. Shreepur Factory Statement Taking Holes on Aeration Platform & Slab { Date of Plant Commissioning 01.09.1998 } ENA PLANT : DISTILLERY MACHINERY PARTS Extractive Distillation Column 15 segs Rectification Column Condensor 1 Nos Reboiler for Extractive Distillation col. 1 Reboiler for Rectification col. 1 Interest on loan funds utilized for above purchases Transport Charges DISTILLERY MACHINERY PARTS Rectification Column Bottom Segment 1 No Extractive Distillation Column I Condensor Extractive Distillation Column II Condensor Fusel Oil Decanter & cooler Fuel Oil Washing Tank 1 No. Interest on loan funds utilized for above purchases Transport Charges Electrical Control Panel Board 1 No Transport Charges Electrical Control Panel (Main Panel) Interest on loan funds utilized for above purchases Transport Charges Store material for ENA Plant (Stores consumption statement) 1998-99 Erection and Fabrication of E.N.A. Plant Interest on loan funds utilized for above purchases
46	1999-2000	Advanimake AC ARC welder Double startion AC ARC Welder NO.1
47		DIGESTOR NO.II Sand blasting & painting etc. Sand blasting, Painting at M.S. Tank Labour Ch. Consultancy charges paid for the modification of Anaerobic Digester. PVC Media PVC Media PVC Media Consultancy charges paid for modification of Anaerobic Digester Anaerobic Digester plant of Bio-Gas STP Panel Board Electric fitting at Gas plant Digester - Labour Charges Fab. of panel board load test of ultra meter etc. KEC machine repairing Ammeters 0-1000 Amp. Volta meter 0-500 Tran. with all accessories for panel board CO2 Gas Syllinder G.I. Pipe 6", Bend Studend, Redu. & Flanges Spares for Rotameter flow rate 500-5000 316 SSI Flat retainer, Gland pkg., etc., Zeal England Thermometer 10 to 110 c Zeal England Thermometer 10 to 110 c Oil Seal 432510 5 No. AD3 1 Kg. Loctilt Oil 50 MI 574/91 1 Tube Shot Bulb Bend B-24 Cone B-24 2 No. Distillation Collection Bend B-24 Cone B-24 Bulb Pipette 20 MI Asgi 3 No. Indicator Bottle Cap.100 MI Plastic 4 No. Reagent Bottle Cap. 1 Ltr. Plastic 4 No. condenser Clamp M.S. 3 No. Tringular Flanges & M.S. Gland 2 No. 6" PVC Tail pieces, Elbow, Tee, Reducer etc. Repairing of charger for Lab India PH meter 5" PVC Socket Electric Material Heating for Lab. 2 Set Electric Motor rewinding charges Electric motor & Exhaust fan rewinding PVC pipe & pipe fitting PVC pipe & pipe fitting PVC bend tee, Cap, Socket Tail pieces 3" size MS Flangs & Rubber Joint Chemical with Transport charges

		MATERIAL ISSUED FROM FACTORY STORES... Various Chemicals Sand & Cloth Machinery Spares Assorted Values,Oil,Grease,Ball Bearing etc. Pipe & Fitting material Electrical Goods Cylinder Welding Rod Assorted Nut % Boalt Plastic & Rubber Goods Civil Material, Paint etc Fiber Glass Capital Work in Progress :- Bio-Gas Plant Repairing Bio Gas Plant Oil painting, Rubber painting Red Oxide painting etc. Bio Gas Plant Repairing, Cleaning work etc. MATERIAL ISSUED FROM FACTORY STORES... RVP Digester Battery Cell 25 Holder for Hoogen tube 31 Backlite Holder 14 Actylene Gas Cylinder 54900 Oxygen Gas Cylinder 27280 Grand Total.. (I to VI) (Work completed on 25.03.2000)
48		DIGESTOR NO.1 Iodine N/10 CVS 3 Box Sodium Hydroxide N/10 Chlorote Reagent Glass sike Hydrometer calibrated at 51 F Glass Tharmameter Range 0-110 C Glass Tharmameter Range 0-150 C Brixhydrometer with tharmameter mercury file calibrated 0-10 Brix Brixhydrometer with tharmameter mercury file calibrated 10-20 Brix Brixhydrometer with tharmameter mercury file calibrated 20-30 Brix Measuring Glass cylinder at 27 C 10 ml Measuring Glass cylinder at 27 C 25 ml Measuring Glass cylinder at 27 C 50 ml Measuring Glass cylinder at 27 C 100 ml Measuring Glass cylinder at 27 C 500 ml Glass Beakers cap. 100 ml Glass Beakers cap. 250 ml Glass Beakers cap. 600 ml Volumetric Flask cap. 100 ml Volumetric Flask cap. 250 ml Volumetric Flask cap. 500 ml Kirloskar make electric motor 420 V, 50 HZ, 3 PH, IP 55, 2900 & 1440 RPM 3 HP Transport charges Supply of PVC media file 7.132 M.Ton Supply of PVC media file 9.437 M. Ton 3" P & V Valve with Mounting Accessories 4" P & V Breather Valve open vent Supply of PVC media file 8.957 M. Ton Power driven pump design for handling Liquid other than S.S.N. Suction & access Supply of MCC panel fabricated out of 14/616 GWG board 5/8 X 24" wire rope Menhol for flore stock Q 825 I Set opening for gas, opening for feed tank Q 750 I Set Dismanttling of parts of existing digester Revamping of existing methane recovery Anaerobic Digester Piping fitting charges Kay Rotary Twin lobe blower BT 34566 I No. Kirloskar make electric motor EG 9253 Professional fess for revamping Sand blasting & painting work of ETP tank (Work completed on 28.04.1999)
49	2000-2001	Helical Roto Pump RMAA 581 R2CD 1 D 15 Ton / HR Liquid- Molasses Pumping with all accessories
50	2001-02	Water filtration & softening plant alongwith accessorises
51	2002-03	GAS PLANT 3 DIGESTERS – LARS ENVIRO Various stores material issued from factory Stores Shreepur during 2001-2002 Stamp papers purchased for Bank Loan

	Expenses incurred by Civil Department (2001-02)
	PVC plain sheets
	PVC plain sheets
	PVC plain sheets
	Temprature Guages & Pressure Guages
	MS Plates & Structural steel
	PVC plain sheet
	MCC Pannels
	Motor for recirculation pumps 4 Nos.
	Liquid flowmeter 1 No.
	Bio gas flow meter 1 No.
	Recirculation pumps alongwith accessories 4 Nos.
	Pipes & Valves
	Feed pupmp alongwith accessories 4 nos.
	Motors for pump 2 nos.
	Paints
	Bio Gas blowers & motors with accessories 2 nos.
	PVC plain sheets
	PVC plain sheets
	Consultancy services for installing SMAT reactor-III
	Manometer & Level Indicator
	Feed pump
	Errection & Febrication of Bio gas plant
	Interest portion capitalized for the year 2001-02 statement filed separately
	Interest portion capitalized for the year 2002-03 statement filed separately
	Various store material issued from factory stores during 2002-03 (Work completed on 10-02-2003)
52	NEW MOLASSES TANK
	MS Plates
	MS Plates
	MS structure material
	MS Plates
	MS Plates
	MS Channels & Angles
	Aluminium paint Red oxide
	Labour for fabrication & Erection of Molasses Tank
	Interest portion capitalized for the year 2001-02 statement filed separately
	Foundation, Steel work & supervision charges
	Calibration & stamping of molasses storage tank
	Interest portion capitalized for the year 2002-03 statement filed separately
	Various stores material issued from factory Stores Shreepur during 2002-2003 (Work completed on 25-11-2002)
53	Distillery Plant Expanstion
	Hellical Roto Pump for Molasses
	One Horizontal Centrifugal Process Pump for Spent Wash
	Electrical Motor Flame Proof Type 5 HP
	One Horizontal Centrifugal Process Pump 50mm x 32mm with 5 HP motor
	Foundation bolt with nut & washers 10 nos
	Foundation bolt with nut & washers 32 nos
	Foundation bolt with nut & washers 12 nos
	Channel Angel Plate for Fermentors
	Plate for Fermentors
	Plate for Yeast settling tank & for wash settling tank
	Plate for clarified wash tank
	Pipe & Pipe Fitting Material
	Pipe & Pipe Fitting Material
	Pipe & Pipe Fitting Material
	Pipe & Pipe Fitting Material
	Yeast activation cum Treatment tank and sludge settling tank
	Acid dosing tank
	Pipe & Pipe Fitting material
	Pipe & Pipe Fitting Material
	Pipe & Pipe Fitting Material
	Design & Supply of column
	Design & Supply of column
	Design & Supply of column
	Pipe & Pipe Fitting material
	Pipe & Pipe Fitting material
	Pipe & Pipe Fitting material
	Pipe & Pipe Fitting material

Rectifier column
Fusel Oil Condensor
Condensor column
Analyser Column, Rectifier column
Rectifier column, Cooler
Condensor column, Rectifier Condensor
Rectifier cum exhaust Column
Rectifier Column, Exhaust Column
Degassing Column
Refining & Rectifier Column
SG/LG Assembly & rectifier & exhaust Column
Vapour Bottle, T.A. mixing bottle
Rebottler for refining column, Safety system for Fermenter
Motor for CO2 Blower, Motor for Spent less transfer pump & motor for run down transfer pump, motor for fermenter wash recirculation pump
Motor for weighed molasses & sludge transfer pump
Weighed molasses pump with gear box
Motor for Nutrine dosing pump, Dilute acid pump, Refining column transfer pump Motor for head bottom transfer pump
Valves (Primary)
Pipe & Pipe Fitting material
Pipe & Pipe Fitting material
Pipe & Pipe Fitting material
Pipe & Pipe Fitting material
Molasses weighing system
Molasses weighing system
Motor for air blower, CIP pump, Clarified wash Pump
Motor for CO2 Blower
Pipe & Pipe Fitting material
Copper & SS Pipe, Molasses brothe, Mixer for Yeast activation tank
Pipe & Pipe Fitting material
Valves (redist)
Pipe & Pipe Fitting material
Pipe & Pipe Fitting material
Pipe & Pipe Fitting material
Pipe & Pipe Fitting material
Instrumentation Pneumatic actuators
Pipe & Pipe Fitting material
Soft water preheater, Fermented wash preheater, Yeast activation coolers
Instrumentation variable area flow meter
CIP Tank
Valves
Pipe & Pipe Fitting material
Valves
Valves
Valves
Air sprger for fermenter, Condensat pot, Nutrient mixing tank
Valves
Pipe & Pipe Fitting material
Pipe & Pipe Fitting material
Head bottom transfer pump, spent less transfer pump & run down transfer pump
Instrumentation of variable area flow meter
Valves
Pipe & Pipe Fitting material & Valves
Refining Column transfer pump
Pipe & Pipe fitting material
pipe & pipe fitting material
Pipe & pipe fitting
Pipe & pipe Fitting material
Pipe & pipe fitting & Valves
Pipe & pipe fitting & Valves
Fermented cooler, and Fermented wash preheater
Agitator for Nutrient mixing tank
Yeast cream collecting tank & manhole
Pipe & pipe fitting
Clarified wash pump
Valves
Dilute acid tank
Instrumentation Rota meter
Valves



Pipe & pipe fitting
Pipe & pipe fitting
Pipe & Pipe fitting
Instrumentation
Instrumentation
Instrumentation
Pipe & Pipe Fitting
Instrumentation magnetic flow meter
Epoxy for tankages
Instrumentation, Pipe & Pipe Fitting
Blower
Air Blower
Pipe & Pipe Fittings
Cell Mass Transfer Pump & Motor for Cell Mass Transfer Pump
Motor for feed Pump for Yeast seperater
Piping Material
Valves
Instrumentation Electrical Cable
Antiform Dosing Pump, Nutrient Dosing Pump Sludge Transfer Pump
Motor for fermentated was recirculation pump
Valves
Pipe & Pipe Fitting
Liquid Seperator for Air & CO₂ Blower Air Sparger for yeast activation tank, Culture vessel
Insulation material
Motor for Acid Dosing Pump
Valves
Instrumentation
Fermented wash recirculation pump & acid dosing pump
Instrumentation Bend pipe & washer
Motor for Dilute acid transfer pump
Instrumentation Electrical Cable
Air Suction Filter
Valves
Pipe & Pipe fitting charges
Pipe & pipe Fittings
Instrumentation roto meters
Instrumentations Flow meter
instrumentation Aluminium coils
Instrumentations
Insulation
Yeast Cream transfer pump
Valves
MCC Panel Board
MCC Panel
Transport charges
Transport charges
Transport charges
Transport charges
Transport charges
Transport charges
Transport charges
Transport charges
Transport charges
Transport charges
Transport charges
Transport charges
Transport charges
Transport charges
Transport charges
Transport charges
Transport charges
Square tank of mildsteel
Circular Tank of mildsteel
Circular Tank of mildsteel
Fabrication & supply of Flot Assembly for MS Tank
Inspection of 11 KV Transformer
Consultancy charges



Consultancy charges for design of diff control panel
Consultancy charges for preparation layout plan
Consultancy charges for services provided for preparation of layout of electrical control room
Consultancy charges for services provided for design and preparation of layout plan
Electrical material supply
Electrical material supply
Electrical material supply
Electrical material supply
Unloading & shifting new control panels of distillery plan
Consultancy charges
Consultancy charges for shifting voltage regulator
Supply of earthing
Electrical cable
Disconnecting of old assembly
Shifting automatic voltage regulator
Dismantling control panel
Streightening, cutting of GI Strips of various sizes for earthing panels starters etc
Labour charges
Providing separate earthing strips labour charges
installation of new control panel
Supply of material
Fabrication of MS Cable Trap of different size
Labour charges
Labour charges
preparation of layout plan, Fabrication of plates underground
Fabrication of cable Trap of different size
Civil work for laying different types of cables
Instrumentation of cables
Civil work for laying different types of cables
Disconnecting of old lighting
Fabrication work for execution of Lighting allied job
Unloading & shifting various cables
Electrical instalation repairs
Installation of Non flame proof bush button station
Heavy duty cable ties MS spacer MS Sider
Laying of different types & sizes of 1.1 Kg grade PVC Insulated, PVC sheathed & cables
Termination of diff types and size of 1.1Kv grade PVC Insulated, PVC sheathed & cables
Supply of MCC Pannel for Distillation MCCPS
Drawings of Modification of Distt Plant
Main Lighting distribution board
Hz Air Compressor
Labour charges for various tanks erection
Labour charges
Piping & Insulation
Data collection, preparation of EIA/EMP/DMP alongwith report for submission and public hearing procedure
3 mm thick FRP on MS Fermentation tank
3 mm thick FRP on MS Fermentation tank
Stream flow metering system
Transport charges paid on material supplied by Praj Industries at Shreepur
AVR distribution panel for ENA
Various stores material issued from factory Stores Shreepur during 2001-2002
Expenses incurred by Civil Department 2001-02
Insurance premium towards loss during transit period & erection paid to United India Insu Co
Hearing fees paid to MPCB Solapur
Supply of Epoxy Reduced
Foundation & supervision charges
Air filter casting (Ladder for cip tank ring lot gasket glass)
Instalation, piping & pipe fitting
Instrumentation control panel
Instrumentation RTD assembly
Instrumentation conductivity switch
Piping & pipe fittings
Piping & pipe fittings
Piping & pipe fittings
Instrumentation ball valves
Piping & pipe fittings
Valves
Piping & pipe fittings
Transport charges
Bag filter 1 No.

		Johnson make pump model KGEK 21-8 without accessories with Bearing house
		Electrification work of fermentation section
		Electrification work
		Electrification work
		Labour charges
		Desuperheating unit, hot water spray pump
		Desuperheating unit, hot water spray pump Tpt charges
		Mather & Platt make spirit transfer pump set
		Mather & Platt make spirit transfer pump set
		Various stores material issued from factory Stores-Shreepur during 2002-2003
		Consultancy charges paid for 2001-02
		Salary & wages of Distillery staff & workers for the period 01.09.01 to 31.03.2002
		Interest portion capitalised for the year 2001-02 statement filed separately
		Consultancy charges paid from 1.4.02 to 31-12-2002
		Salary and wages of Distillery Staff & workers for the period 01.04.02 to 31.12.2002.
		Interest paid to Praj Industries Ltd. Upto 31.12.02
		Interest portion capitalised for the year 2002-03 statement filed separately
		(Work completed on 1-1-2003)
54		Water purification plant :
		Spenta clean formulation & solutions
		Testing charges
		Various stores material issued from factory Stores Shreepur during 2002-2003
		Various stores material issued from factory Stores Shreepur during 2002-2003
		Expenses incurred by Civil Department 2001-02
		(Work completed on 25-1-2003)
		Effluent treatment and Recycling plant complet in all respects (Bottle washing & Spent lease)
		Flotech Solution
		De super heating unit hot water spray pump
		Flow meter with digital indicator
		GI Strips, Saddles, GI plates, nutbolt, washer Cable gland etc.
		1.1 KV core armoured cables, GI saddles, PVC sleeve, cable jointing kit etc.
		Tst links
		Braco flance type cable, glads for 300 etc.
		M.s. Washers 3mm thick bolt, ferrules, for cable jointer kits, M.s. Washers 3mm thick for bolt
		Sleeve, Bus bar Red, blue, Yellow, Black, G.I. Plaster washer, nuts, etc.
		Copper nuts, cable 200 mtrs.
		G.I. Strip 25 x 5 mm, 25 x 3 mm, 20 x 3 mm
		M.S. Angle bar, etc.
		M.S. Chequered plate 6 MM
		M.S. Angle 40 x 40 mm x 5 mm, 50 x 50 x 5 mm
		M.S. Flat Bar 50 x 8 mm, 50 x 6 mm, 25 x 5 mm
		M.S. Plate 10 mm Thick, M.S. Channels 100 x 50 mm
		MS Chequered plate 6 mm
		Indosat
		Generator, extension box iwth copper bar, insulator power supporter
		Extension panel for 380 KVA for D.G. set
		Labour charges for excavation of cable.
		Consultancy charges
55		Spent wash decolourisation plant :
		Civil work
		Spenta clean & Oil other solution
		Hardware material
		Various stores material issued from factory Stores Shreepur during 2001-02
		Expenses of Civil Department Shreepur 01-02
		Interest portion capitalised for the year 2001-02
		Various stores material issued from factory Stores Shreepur during 2002-2003
		Interest portion capitalised for the year 2002-03 details filed separately
		Expenses of civil department
		(Work completed on 1-9-2002)
56	2003-2004	Water purification & recycling plant
		Effluent treatment and Recycling plant complet in all respects (Bottle washing & Spent lease)
		De super heating unit hot water spray pump RN 32 x 8 , Head 200 Mtrs 1 Nos.
		Flow meter with digital indicator
57		New Diesel Generating Set
		GI Strips, Saddles, GI plates, nutboilt, washer Cable gland etc.
		1.1 KV core armoured cables, GI saddles, PVC sleeve, cable jointing kit, etc.
		Test links
		Braco flance type cable, glads for 300 etc.
		M.S. washers 3mm thick bolt, ferrules for cable jointer kits, M.S. washers 3mm thick for bolt
		Sleeve, Bus bar Red, blue, Yellow, Black, G.I. Plaster washer, nuts, etc.

		Copper nuts, cable 200 mtrs.,
		G.I. Strip 25 x 5 mm, 25 x 3 mm, 20 x 3 mm
		L/T contanor, flange type gland for 1.5mm x 4C cable
		M.S. Angle, bar, etc.
		M.S. Chequered plate 6 MM
		M.S. Angle 40 x 40 mm x 5 mm, 50 x 50 x 5 mm
		M.S. Flat Bar 50 x 8 mm, 50 x 6 mm, 25 x 5 mm
		M.S. Plate 10mm Thick, M.S. Channels 100 x 50mm
		M.S. Chequered plate 6 MM
		Indosal
		Generator, extension box with copper bar, insulator power supporter
		Extension panel for 380 KVA for D.G. set
		Labour charges for excavation of cable.
		Consultancy charges
		Consultancy charges
		Consultancy charges
		Alteration of 1250 amp 415 voh bus bar of existing main load, distribution panel
		Labour charges for excavation of earthing systems
		Labour charges for installation of diff type cable
		Labour charges for unloading, shifting & erection of control panel
		Electrification work
		Electrification work
		Electrification work
		Electrification work
		Electrification work
		Electrification work
		Electrification work
		Electrification work
		Electrification work
		Electrification work
		Supply of 380 KVA/304 KW three phase diesel generating set comprising of cummins make diesel engine, developing 540 BHP at 1500 RPM, water cooled electric start
		Model - KTA1150G with stamford make alternator
		Additional work in panel size 4000 x 2200 x 1200 to 4000 x 2200 x 1300
		Inspection fees
		Transport charges
		Various civil expenses done through civil department
		Various store material issued from factory stores
58		Micro finish pump set with maruti make mechanical seal, model No. 2K4 x 3 10 H set with electrical motor, coupling without base frame 12.5 HP, 1440RPM crompton make frame ND 160 m.
		(Installed at firementation tank of 35 KLPD plant)
59	2004-2005	Borewell
		3 HP 25 stage power motar with cable & other attachments
		Pipe 400 ft. ISI
		4 Borewell taken at factory site from Balaji Borewell Cement bag 1 No. issued from Factory stores (Work completed on 14.4.2004)
60		Brush tool make air driven condenser tube cleaner kit suitable for 23 mm. ID condenser tube with accessories
61		Molasses Tank
		M.S. Plates & structural steel for base plate & backing strip
		Shell plates
		IV Supply of roof plate
		III supply of structural steel
		Sluice valves, pipes for inlet and outlet drain, vent out, flow pipe fittings, spraying coil, manholes, level and temp indicator
		Shell plates
		Consultancy for design & engineering of Molasses tank
		Labour work for erection & fabrication of M.S. Tank
		Paints
		Escalation on supply items
		Foundation, Steel work & supervision charges
		Calibration & stamping of molasses storage tank
		Various stores material from factory stores Shrepur during 2004-2005 as per detailed statement filed separately (Work completed on 11.3.2005)
62		Gas Cromotograph
		Chemito GC 8610 with split splitless injector single PKD col injector dual flame ionization detector startup kit capillary column
		Chemitochrom 2000 window based single channel software with interface card
		GAS controller & purification system cylender regulator SS tubing etc.
		Transport charges

		(Machine put to use from 11.1.2005)
63		Condensor Water Meter
		FRP floom 5 cusecs ni plast make frame
64		Twin lobeblower Model ARI 615, capacity 700 M³/hr. for gas plant
65		Various store material (Fluid control transfer pump) issued for malt plant on 8.8.2004
66		Various store material issued such as dosing pump for antifoam oil for Distillery on 5.10.2004
67		Various store material issued such as new culture pump set. For Distillery on 21.11.2004
		DM Water pump set.
68	2005-06	Factory Stores
		Flow meter head model set 2 Nos.
		Material issued from factory stores on 7.4.2005
69	2006-07	TELTECH make 3" TL 03 P D Flowmeter 1 No. fitted with calibration mechanism assembly, fitted with mechanical veedor root counter model 7887, Mechanical present valve, Mechanical veeder root preset register model 7889 and strainer cum air eliminator
		Transport charges
70		KM Electromagnetic Flowmeter head model IFS 4000 Size DN80 liner ptfe elect SS316 FLG Conn. A150/CS version Ex-Proff Transport charges
71		BEP model 1002 BEP sonic soot blowing system with all accessories like airline filter, lubricants, salenoid valve a common programmer for fully automatic operation for thermax Boiler 2 Nos.
72		Boiler feed hot water heat exchanger from hot spent M O C S S 304 M O C container SS 304 I No. SS Insulation instead of G I 8 sq. mtr Extra sensor cable 40 mtrs. Transport charges
73	2007-08	Effluent Treatment Plant
		Small Scale Spent Wash Treatment and Re-cycling machinery
		Addition through capital work in progress
		G.M. Gate valve, screwed sixe 1", G.M. safety valve, screwed, M.S. nut-bolt with washers, blue zinc plated size 1/2" x 2 1/2", S.S. wire 12 mesh 65 sq.mtr.
		Mono block pump set for pilot plant
		Fluid control make pump for lime dosing - 3 nos. capacity 100 lph, pressure 5 kg/cm ² , motor .5hp three phase
		Micro finish make pump with CI/CS body and wetted part SS - 2 nos.
		shanthi make warm reduction gear box - 4 nos. type - 5 AV - 200, ratio 20 : 1 sr. no. 133759 , 133760 , 133761 , 133762 with jaw type coupling type R-95
		agitator with motor for chemical mixing tank spent mixing tank, Lime mixing tank, spent mixing tank with gear box - 1 no. each
		saddles elbow, pipe etc.
		PVC CRG, clips etc.
		Services in connection with pollution control abatement measures to be adopted for treatment of spent wash
		Various store material issued from factory stores department during 2003-04
		Various store material issued from factory stores department during 2004-05
		Advance against trial charges towards decolourisation plant
		Various stores material issued during 2005-06
		Various stores material issued during 2006-07
		(Date of Commissioning : 09-10-2007)
74		Steam Flow Meter
		Various store material issued from Factory Stores viz. Transmitter Emerson Make Flow indicating totaliser
		Labour charges incurred on above
		Installation of Steam Flow Metre Flanges 2 Nos.
		(Work completed on 10.1.2008)
Plant and Machinery - Power Plant		
	2000-01	
1		MEDA - Application Fee for permission
2		Ireda upfront fees for term loan
3		Insurance for instolation & comm. Of power plant
		Insurance premium on panel board
4		Analysis fees for Bio-gas
		M.P.C.B - Application for permation
5		Expenses incurred for levelling the land required for P.Plant paid by factory
		Plot cleaning charges
6		Supply of material for erection and commissioning of H2S scrubber
		Supply of Civil material for above plant
		civil Construction
		Civil Material, Still ,Cement Etc.,
		Supply of steel, Pump motor tank, pipe Fitting
		Supply of gas holder, valve etc.,
		Civil construction II stage
		Absorber Column
		Mechanical erecation 1st stage
		Erection of H2S removal scrubber, Air blower with motor pump etc.

	Erection and commissioning of H2S impurity removal plant, Supply of material
	Erection and commissioning of H2S impurity removal plant, Supply of material
	Erection and commissioning of H2S impurity removal plant, Supply of material
	Erection and commissioning of H2S impurity removal plant, Supply of material
	Erection and commissioning of H2S impurity removal plant, Supply of material
	Supply of 50 kg. Nutrient for H2S scrubber
7	Gas Engine
	Power plant single line diagram & G.A. drawing
	Technical, Electrical, Mechanical, instrumentation, Services
	20% advance for the machinery, transformer control relay, ventilation chimney etc..
	Layout earthing of Diagram & Drawing for Lab.
	Pipe routing Diagram & Drawing for power Gas Plant
	Custom duty on cogen power plant engine
	1 Biogas based cogeneration module jms 320 GS – B.L. & Accessories
	Alternator for 1 bio gas based cogeneration module jms 320 GS – B.L. With Accessories
	Erection, Testing & Commissioning of cogen Plant
	Unloading of gas cogeneration module
	Unloading of gas Equipment
	Inspection / checks for mechanical completion of cogen plant
	10% on commissioning of plant
	Indigenous equipment for cogeneration plant
	Engineering works and service charges
	Commissioning of the plant.
	Professional Fees paid for the plant
8	-----
9	-----
10	Electrical Installation work for interconnection of existing plant with 1.006 MW power plant
	Electrical material supplied for the installation of Cogent Plant
	Earthing system for 11 KV / 415 volt switch yard equipment for cogen plant
	Structural fabrication of 11 KV/415 volt switch yard equipment
	Electrical installation of 415 / 11KV switch Yard Testing & other allied work
	Material supply for modification of 11 KV high voltage transmission line between gas plant & existing 4 pole structure
	Reparation of 11 KV high voltage transmission Line
	Electrical material supply for cogen plant
	Electrical installation charges
	Civil work fabrication safety fastner
	Electrical material for cogen plant
	Electrification work to H2s Scrubber plant testing commissioning of electrical installation charges
11	Digital balance Ele. Analytical balance model no. AB 204 S including transport charges
12	Thermal Insulation work at shreepur fixing of 50/100 mm thick glasswool with G.I.Wire & Aluminum cladding
13	M.S. Chequered plate 16' x 4' 6 mm thick cogen plant
	Transport charges
14	Steam seperator for cogen plant
15	Armored Cable for cogen plant
16	L.A. 12 KV 10 KA Station Class, Gapless, Mogard type model for cogen plant
17	Endee Continious system point non indicating Gas detection system for bio gas & smoke cogen Plant
18	Station class 11 KV 200 Amps. Outdoor type two phase, operated on load isolator
19	1250 Amps change over panel as per drawing
20	M.S. Fabricated, Galvanised & double powder coated with 7 tank processed suitable for distillery atmospheric condition and the current transformers
	Transport charges
21	Softning plant capacity 200 m3 day flow
22	Chain link M.S. work exp.
23	A/U. around cable polycab 300 mm2 x 3.5 core for cogen plant
24	A/U. Around cable polycab 70 mm. x 3.5 core for cogen plant
25	Duke amics make 1 Lt top import / Export meter for 3 phase, 4 wire connection
26	Preparation charges of main gate door
	Lub. Oil Anti – Lub Oil
	Transport charges
27	Copper armured cable
28	Battery Acid
29	Accessories for Gas chromatograph, Data collection system, Gas sampling value, Double stage cylinder regulator, Voltage stabiliser, Calibration cylinder
30	Spare balloon for Rudra wind direction indicator
31	Eshika Microprocessor Gas chromatograph

32	Inconel vortex flowmeter, alongwith power cord connector complete system
33	Common meter reading instrument model DMRI 1006 for cogen plant with accessories
34	Cyclone separator whistle for power plant
35	Pipe fitting & welding M.S. Structure
36	Work done by Civil department of the co. as per details filed separately
37	Verious chemicals used upto Jan.2001 for trial run of the power plant
38	Various hardware material such as M.S.Beam 40 No. G.I. Wire coil chanel, beam, Plate, Angle, Electrical goods paint purchased & transport charges their on (Detailed stores statement filed separately)
39	-----
40	Upstream & Downstream version piping
41	Fabrication & Erection of Ms Structure & Gas pipe line at plant & labour charges
42	-----
43	Digital conductivity meter
44	Transport charges as per Voucher
45	-----
46	Rudra wind diversion Indicator
47	-----
48	Electrical wiring fitting for power plant
49	Various civil work such as foundation for mach, boars for earthing pit, oil painting & red oxide painting for railing & Gas piping done by the employees of the civil department of the company
50	Washing powder, spare,Oil,dearing, Valves,Pipe Pipe fittings, Hardware angle, Plate, & Civil material etc. issued from stores department
51	M.S. Angle, Bar, Gas cylinder, Rod, Nut-Bolt & wire etc. (Material issued from stores department)
52	Consultancy charges
	Travelling, Telephone, Conveyance and other expenses
	Other Expenses on 1 MW Power Project
	Consultancy charges
	Consultancy charges
	Consultancy charges
	Travelling Expenses
	Travelling Expenses
	Travelling Expenses
	Professional fees
	Electrical Drawings scrutiny and Inspection fees
	Stamp charges on execution of hypothecation deed in favour of IREDA
	Supervision charges paid to MSEB
	Testing fees of TOD meter 2 relays
	Guarantee Commission paid to Bank of Maha. towards Ireda loan
	Insurance premium of power plant machinery
	Operation fees to consent of scrubber plant
	Professional fees paid to Horizon services
	Octroi charges
	Sales tax paid for erection of co-generation plant
53	Interest portion capitalised as per detailed statement filed separately (Plant commissioned on 27.8.2001)
	2001-02
54	Power Plant : Additional Transformer Mahati make 400 KVA 11 KV grounding transformer complete with first filling of Oil and standered accessories Interest portion capitalised as per detailed statement filed separately 2000-01 Interest portion capitalised as per detailed statement filed separately 2001-02 (Work completed on 10.1.2008)
55	Variable Springs Supports including transport
	Cable 2 Core 200 Mtrs.
	Cables as per size 64 No.
	Valve for steam including transport
	Aluminum target plate for steam blowing
	IBR class 150 SORF flanges
	1 MHZ signal frequency generator
	Loopcalibrator
	Spanner set
	Dial gauge baker make one micron along with magnatic stand
	Variable spring support alongwith transport charges
	U V Cellqra - 2
	Labour charges for Erraction of controller and U V cellqra - 2
	Labour charges for Errection of steam piping, HP welding charges full butt welding, flange joints and support fabrication
	Labour charges for errection of steam piping, HP welding charges full butt welding, flange joints
	Labour charges for IBR piping, Welding charges, Radiography charges, Lumpsum IBR charges, fabrication of

		support including instalation of PRS and header
		Steam preature reducing station including steam distribution header
		Labour job for rerouting and fabrication & welding of condensate piping
		Labour charges errection of IBR piping, wealding charges of Butt wealds & flang welds
		Labour charges errection of IBR piping, wealding charges of Butt wealds & flang welds, fabrication of new drainassemblies, fabrication of PRS for malt section from new header etc.
		Design, manufacture & supply of IBR distribution header to connect execting steam lines incoming from boilers
		Charges for fixing of 75 thick glass wool with GI wirenetting and fixing of 24 SWG aluminium cladding
		Foundation for anama plant
		Supply of IE aluminium flat, GI plated nut bolt, strips, Paint Luggs etc.
		Electrical instalation of anama plant
		Labour charges for arrangement of MSEB shutdown, disconution of HT line for cutting of highted trees & other job
		Supply of electrical material
		Electrification work
		Consultancy charges of electrical inspector and allied job
		Repairing of 10 KW AVR
		Instalation, calibration tasting and commissioning of 10 KW AVR
		Supply of steam turbine of 150 KW capicity with all accessories
		Charges for supervision and commissioning of turbine generator set
		Stores material issued for Turbine work during 2000-01
		Stores material issued for Turbine work during 2001-02
		Consultancy Anama
		Interest portion capitalised as per detailed statement filed separately (2000-01)
		Interest portion capitalised as per detailed statement filed separately (2001-02)
		Expenses incurred by civil department of the Company during 2001-02 (work completed on 1.3.2002)
	2002-03	
56		POWER PLANT MACHINERY (EXPRESS FEEDER)
		Electrical goods
		Conductor ACSR for HT line
		MS Chanel, Nut Bolts etc.
		Cable 11 KV
		Coper cable
		Cable jointing kit
		A A Conductor
		Clamps - 4
		Electrical goods
		Silver paint
		11 KV Express Fedder garding wire etc
		11 KV Transmission line
		11 KV Line
		Structural fabrication
		Unloading of Pools, disconnectioning of line
		Preparation of layout plan of 11 KV line
		Pole Coupping
		Civil work for 11 KV Line
		Electrification work of 11 KV Line
		Preparation of drawings of 11 KV Line
		Installation of earthing transformer
		Supply & instalation of earthing station of 11 Kv
		Transformer foundation
		Various stores material issued form factory Stores Shrepur during 2001-02
		Fees paid to Electrical Inspector towards Inspection fees
		Interest portion capitalised for the year 2001-02 statement filed separately
		Material supply for instalation of 11 KV
		Cableing termination & civil work
		Fabrication work for diff. H.T., Instalation & civil work
		Laying & earthing strips of various sizes
		Labour charges
		Labour charges
		Electrical instalation in MSEB
		Electrification work
		Electrification work
		Electrification work
		Electrification work
		Electrification work
		Consultancy charges

		Labour charges
		Procelatan clad vcd with motorised mechanism 230 V AC
		Kaycee breaker control switch, Rotary switch
		Control panel with vcb with relay protection and metering
		Various material supply
		FR converter alongwith opl unit
Boiler		
1		Lipi Make Horse Shoe Furnace Boiler 20 Tons Steam per Hour. Bagasse fired auxiliary fuel Furnace Oil. Total Heating Surface 1020 Sq. Mt.
	1994-95	
2		Shelimax Boiler Model SM 40/2 FO/Bio Gas, One No.
		Fabrication, Erection and Testing of IBR approved Pipes and fittings
		Transport Charges there on
		M.S. Tank of 4500 Ltrs. One No.
		Transport charges on the Tank
		Khosla Model CT 4,5,1 HP, 1 stage N/L Air Compressor complete with electricals on 90 Ltrs. air receiver. Set No. 23212 One No. Transport Charges on compressor
		Digital Colorimeter Model CL-157 93421
		Crane and Trailer Hire charges for Loading and unloading and transport charges of Boiler
		Labour Charges for foundation of Boiler
		Transit Insurance
		Adhesive Stamps for Execution of ICICI Documents
		Interest on ICICI Bills ending March 1994
		Interest on ICICI Bill upto 30.6.1994
		Various stores material such as Steam Trap Assorted, MB/GI Pipes, Pipe Fittings, G.I. Sheets, Boiler Chemicals, Armoured Cable, ICTP Switches, Pvc Wires, Voltage Stabilizer as per stores consumption statement of 94-95
		Softner SU 400 Y with Accessories
		Dismantling/Shifting and erection on the site of Thermax Boiler
		GI wire Ropes 400 Mtrs., 12 Clamps
		Air Break Switch
		Cap 10000/25 V
		Hydraulic Pump 0 to 30 Kg./ Cm2 Pressure
		Cost of Insulating work to Pipe Lines with Glass wool as per measurement and Aluminium Sheet 24 SWG
		Other Material Such as PVC Pipe 1/2", Electrical Material, Control Cable 2 connection Box, Ferro 20 Rolls and Transport Charges
		Labour Charges as per Trial Balance
		Architectural and Certification Fee (Date of Commissioning 1.7.1994)
3		Supply of Insulation Material for Shelimax Boiler, Model SM 40
	1998-99	
4		Erection & Commissioning of Steam Pipe line from Distributing steam header to Rectified Spirit plant 83 Mtr
		Erection & Commissioning of Steam trap assembly (Size 3/4") 02 Nos
		Intrest on loan funds utilized for above purchases
5		Pressure Reducing System 1 No
		Intrest on loan funds utilized for above purchases
		Transport Charges
	1999-2000	
6		Skoda Boiler 10 Ton Complete with all Accessories No. MR-7595
7		Positive make Boiler feed water treatment chemical dosing pump with motor
		Strainer - S.S304'Y' type 30 mesh
		Nipple - S.S. 304 1/2" BSP
		Starter - crompton make
		Positive make Boiler Hydraulic testing pump with motor
		Strainer - S.S.304'Y' Type 30 mesh
		High pressure hose with fittings
		High pressure guage 0 to 70/2 cm Bari make
		Pressure safety valve 0 to 70 kg/ 2cm
	2009-2010	
8		Chimney for Boiler
		MS Pipe OD 955 MM Length 600 MM and Thickness 8 MM ----- Qty-1 No
		MS Pipe OD 955 MM Length 600 MM and Thickness 6 MM -----Qty-1 No
		MS Flange OD 1100 MM, PCD 1030 MM 16 Holes of 20 MM diameter Thickness 25 MM ----- Qty-4 No.
		Themax Boiler Chimany 1 No.
		30 Meter Hight Dismantling & Fabrication & Erection
		Themax Boiler Chimany
		Platform & staging Fabricatio & Erection 1.779 Tonns
		Pipeline 63 Inch Diameter
		Dismantaling Thermax Boiler Chimany and Well Structure 1.993 M.T.

As mentioned above, the relevant details from the Schedule 2 as are relevant to the present proceedings have been reproduced above. The details of the items in terms of the name of the party from whom purchased, bill no. have not been reproduced. Further, bill amounts are not mentioned in the Schedule 2 except in items related to details of fees and that, too, in a very few cases.

At first sight, one can see that the Schedule enumerates the movable goods. As for erection and commissioning charges, they form a part of the purchase price or the cost at which goods were purchased by the applicant. The above details do not, in any way, suggest that the items enlisted therein are immovable property. They are movable property such as the various machinery and equipments. When we see the definition of 'assets' which refers to the Schedule 2, we find that the same was also linked to movable goods, tangible as well as intangible, thus -

"mean all property, assets, benefits and rights of the Seller relating to the Business, (a) benefit of the Permits as set out at Schedule "1", (b) the plant and machinery as set out at Schedule "2", (c) the, furniture and fixtures, vehicles and equipment as set out at Schedule "3", (d) the intangibles including the Intellectual Property described at Schedule "4", (e) the benefit of all contracts relating to the Business listed at Schedule "5", (f) Inventory such as raw and packing materials, finished goods, stock in process, imported concentrates, molasses Rectified Spirits, Extra Neutral Alcohol, Malt Spirit, Grape Spirit, Cane juice Spirit, Maize Spirit as set out at Schedule "6" ("Inventory")."

The agreement for sale of immovable property was entered into separately in the form of the Sale Deed dt.21.01.2011. It is therefore that we find that the Business Transfer Agreement (BTA) dt.16.12.2010 entered into for a consideration of Rs.39 crs. was for sale of movable goods (tangible as well as intangible), the break-up of which was thus :



Plant & Machinery	Rs. 11,65,00,000/-
Furniture & fittings	Rs. 25,00,000/-
Equipments	Rs. 10,00,000/-
Vehicles	Rs. 20,00,000/-
Goodwill	Rs. 10,00,00,000/-
Manufacturing Licenses	Rs. 16,80,00,000/-
Total	Rs. 39,00,00,000/-

The entire consideration for the transaction was 50 crs. which comprised movable of Rs.39 crs. and immovable of Rs.11 crs. (Land and Building at 6.35 crs and 4.65 crs., respectively). The aggregate consideration was thus -

Land	6.35	IMMOVABLE
Building	4.65	
Plant & Machinery	11.65	MOVABLE
Furniture & Fittings	0.25	
Equipments	0.10	
Vehicles	0.20	
Goodwill	10.00	
Manufacturing Licenses	16.80	
Total	50.00	TOTAL

Copies of a few journal entries with regard to the sale of assets and other papers were given during the earlier proceedings and form a part of the record. Details of these could be seen thus -

Journal Voucher

No. : 315

Dated : 21-Jan-2011

Particulars	Debit	Credit
Brima Sugar Maha. Distt Ltd- (fixes Assets)	Dr 50,00,00,000.00	
To Drs for Sale of Land at Shreepur	Dr	6,35,00,000.00
To Drs for Sale of Buildings at Shreepur	Dr	4,65,00,000.00
To Drs for Sale of Fixed Assets	Dr	12,20,00,000.00
To Drs for Sale of Manufacturing Licenses	Dr	16,80,00,000.00
To Drs for Sale of Goodwill	Dr	10,00,00,000.00
On Account of : Being the entry to record amt receivable from BSMDL, Mumbai against sale of Company's Distillery Divn at Shreepur in terms of BTA dt.16012.10 and sale Deed of Land & Building dated 21.1.11 filed separately		
	Rs.50,00,00,000.00	Rs.50,00,00,000.00

Journal Voucher

No. : 344

Dated : 28-Feb-2011

Particulars	Debit	Credit
Drs for Sale of Fixed Assets		12,20,00,000.00
Drs for Sale of Land at Shreepur		6,35,00,000.00
Drs for Sale of Buildings at Shreepur		4,65,00,000.00
Drs for Sale of Goodwill		10,00,00,000.00
Drs for Sale of Manufacturing Licenses		16,80,00,000.00
Loss on Sale of Fixed Assets		40,45,168.62
To Factory Building - Alcohol		10,58,464.00
To Power Plant Building		24,05,486.00
To Factory Building - P. Alcohol		40,76,011.00
To Big Composting Building		1,33,045.00
To Offices Godowns Staff Quarters & Other Buildings		1,73,97,282.00
To Factory Plant & Machinery Alcohol		6,82,39,566.00
To Power Plant Machinery		3,45,40,662.00
To Factory Plant & Machinery - Potable Liquor		1,24,99,616.00
To Big Composting Machinery		17,59,666.00
To Boilers		10,01,189.00
To Furniture & Equipment - P. Liquor		8,19,657.00
To Furniture & Equipment - Alcohol		3,83,910.00
To Laboratory Apparatus - Alcohol		1,676.00
To Laboratory Apparatus - P. Liquor		204.00
To Vehicles - Liquor		11,13,241.00
To Profit on Sale of Land		6,34,74,069.72
To Sale of Manufacturing License		16,80,00,000.00
To Sale of Goodwill		10,00,00,000.00
To Capital Work in Progress		2,71,15,493.62
To Land - Freehold		25,930.28
On Account of : Being the entry to record amt receivable from BSMDL, Mumbai against sale of Company's Distillery Divn at Shreepur in terms of BTA dt.16012.10 and sale Deed of Land & Building dated 21.1.11 filed separately		
	Rs.50,40,45,168.62	Rs.50,40,45,168.62

Factory Plant & Machinery - Potable Liquor
Ledger Account

1-Apr-2010 to 31-Mar-2011

Date	Particulars	Vch Type	Vch No.	Debit	Credit
1-4-2010	To Opening Balance			9808349.00	
30-11-2010	To Factory Stores <i>Being the entry to record the stores consumption at Shreepur factory of the period from 01.01.10 to 30.11.10 as per detailed consumption statement filed separately</i>	Journal	269	45600.00	
	To Capital Work in Progress <i>Being various expenditure incurred for Lagoon Lining No 2 and for SS Tank Foundation at P. Liquor Unit during earlier year and standing to the debit of latter a/c now capitalized as above as the work has been completed during the year 2010-11</i>	Journal	277	3181539.75	
28-2-2011	By Depreciation <i>Being the entry to provide depreciation on fixed assets of the company for the accounting year 2010-11 at the rates prescribed in the schedule XIV to the Companies Act 1956</i>	Journal	343		535872.75
	By Drs for Sale of Fixed Assets <i>Being the entry to record sale of various assets to Brima Sagarmaharashtra Distilleries Ltd. In terms of sale deed for Land & Building, Business Transfer Agreement and Transfer of Licence agreement filed separately</i>	Journal	344		12499616.00
				13035488.75	13035488.75

Schedule 5										
Description of Assets	Cost or Book Value			Gross Block as at 31-03-2011	Depreciation				Net Block as at 31-03-2011	Net Block as at 31-03-2010
	as at 01-04-2010	of additions during the year	of deductions / adjustments during the year		Upto 31-03-2010	For the year	on adjustments during the year	Upto 31-03-2011		
Land Free Hold	-	26718.22	82742.69	-	-	-	-	-	82742.69	109460.91
Land Lease Hold	-	-	-	-	-	-	-	-	-	-
Buildings	-	-	-	-	-	-	-	-	-	-
Alcohol	3331841.07	-	3331841.07	-	2227142.07	46235.00	2273377.07	-	-	1104699.00
Power Plant	3582308.07	-	3582308.07	-	1096837.07	79985.00	1176822.07	-	-	2485471.00
Potable Liquor	7672928.46	464569.22	8137497.68	-	3902094.46	159392.22	4061486.68	-	-	3770834.00
Bio Composting	159768.63	-	159768.63	-	23156.63	3567	26723.63	-	-	136612.00
Animal Health	-	-	-	-	-	-	-	-	-	-
Offices Godowns Staff Quarters & other Bldg.	47367289.50	6147869.00	32490234.98	21024923.52	7685363.5	646355.00	5756306.98	2575411.52	18449512.00	39681926.00
Offices Godowns Staff Quarters & other Bldg. Lab.	-	-	-	-	-	-	-	-	-	-
Plant & Machinery	-	-	-	-	-	-	-	-	-	-
Alcohol	150437047.51	-	150437047.51	-	77712105.51	4485376.00	82197481.51	-	-	72724942.00
Power Plant	695937650.52	-	695937650.52	-	32596691.52	2456412.00	35053103.52	-	-	36997074.00
Potable Liquor	26816545.47	3227139.75	26816545.47	-	17008196.47	535872.75	17544069.22	-	-	9808349.00
Bio Composting	2935571.21	-	2935571.21	-	1082820.21	93085.00	1175905.21	-	-	1852751.00
Animal Health	-	-	-	-	-	-	-	-	-	-
Lease	2592286.92	-	2592286.92	-	2592286.92	-	2592286.92	-	-	-
Boiler	3698845.36	-	3698845.36	-	2567100.36	130556.00	2697656.36	-	-	1131745.00
Metal Printing	2711859.50	-	-	2711859.50	1148697.50	126047.00	-	1274741.50	1437115.00	1563162.00
Radico Khaitan Ltd.	-	-	-	-	-	-	-	-	-	-
John Distilleries Ltd.	398150.00	-	398150.00	-	22525.00	-	22525.00	-	-	375625.00
Furniture & Equipment	-	-	-	-	-	-	-	-	-	-
Alcohol & Potable Liquor	12397991.09	45695.00	4137305.69	8306380.40	7188413.09	491176.00	2927413.69	4752175.40	3554205.00	5209578.00
Animal Health	-	-	-	-	-	-	-	-	-	-
Software	3137468.14	-	3137468.14	-	3137468.14	-	3137468.14	-	-	-
Maharashtra Office	246965.00	-	-	246965.00	229182.00	2473.00	-	231655.00	15310.00	17783.00
Export	49845.00	-	49845.00	-	49845.00	-	49845.00	-	-	-
Delta	138496.00	-	138496.00	-	138496.00	-	138496.00	-	-	-
Outright location	236577.80	-	209429.80	27148.00	179306.80	2515.00	165548.80	12267.00	14881.00	57277.00
Cash Turnover Division	24550.00	-	24550.00	-	7137.00	1318.00	8455.00	-	-	17413.00
Metal Printing	172224.00	-	-	172224.00	118381.00	6631.00	-	125012.00	47212.00	53843.00
Radico Khaitan Ltd.	4600.00	-	4600.00	-	4600.00	-	4600.00	-	-	-
John Distilleries Ltd.	74190.00	-	74190.00	-	40641.00	-	40641.00	-	-	33549.00
Laboratory Apparatus	-	-	-	-	-	-	-	-	-	-
Alcohol & Potable Liquor	229615.99	-	229615.99	-	227434.99	301.00	227735.99	-	-	2181.00
Animal Health	-	-	-	-	-	-	-	-	-	-
Vehicles	-	-	-	-	-	-	-	-	-	-
Potable Liquor	18438746.51	758482.00	11550629.51	7646599.00	12749818.51	1007441.00	10072113.51	3685146.00	3961453.00	5688928.00
Animal Health	-	-	-	-	-	-	-	-	-	-
Metal Printing	44877.00	-	-	44877.00	28335.00	4263.00	-	32598.00	12729.00	16542.00
	356603814.66	10643754.97	326983850.52	40263719.11	173764069.75	10279000.97	171354061.30	12689009.42	27574709.69	182839744.91
Capital work in progress	-	-	-	-	-	-	-	-	2106143.00	34824720.36
	-	-	-	-	-	-	-	-	29680852.69	217664465.27

The following Statement was already reproduced in the earlier determination order :

Statement showing profit on sale of various Assets to M/sBrima sugar Maharashtra Distilleries Ltd.

Sr.no	Description of Asset	Date of Sale	Selling price	WDV as on the date of sale	Profit/(Loss)
1	Land				
	Land at Mahalung	01.12.2010	6,35,00,000.00	25,930.28	6,34,74,069.72
2	Buildings				
	Alcohol Factory	01.12.2010		10,58,464.00	
	Power Plant	01.12.2010		24,05,486.00	
	Potable Liquor	01.12.2010		40,76,011.00	
	Bio Composting	01.12.2010		1,33,045.00	
	Other Buildings	01.12.2010		1,73,97,282.00	
			4,65,00,000.00	2,50,70,288.00	2,14,29,712

3	Plant & Machinery				
	Alcohol	01.12.2010		6,82,39,566.00	
	Power Plant	01.12.2010		3,45,40,662.00	
	Potable Liquor	01.12.2010		1,24,99,616.00	
	Bio Composting	01.12.2010		17,59,666.00	
	Boiler	01.12.2010		10,01,189.00	
	Capital work in progress	01.12.2010		2,71,15,493.62	
			11,65,00,000.00	14,51,56,192.62	(2,86,56,193)
4	Furniture, Fittings, Equipments and Laboratory Apparatus				
	Alcohol	01.12.2010		3,83,910.00	
	Potable Liquor	01.12.2010		8,19,657.00	
	Alcohol – Lab Apparatus	01.12.2010		1,676.00	
	Potable Liquor- Lab Apparatus	01.12.2010		204.00	
			35,00,000.00	12,05,447.00	22,94,553
5	Vehicles – Potable Liquor		20,00,000.00	11,13,241.00	8,86,759
			16,85,00,000.00	17,25,45,168.62	(40,45,168.62)
6	Manufacturing Licences	01.12.2010	16,80,00,000.00	-	16,80,00,000
7	Goodwill	01.12.2010	10,00,00,000.00	-	10,00,00,000
		Total Rs.	50,00,00,000.00	17,25,71,098.90	32,74,28,901.10

It can be seen from the above that the Accounting System of the applicant recognized the Buildings in terms of the operations carried out therein such as Alcohol, Power Plant, Potable Liquor, Bio composting, Other Buildings, etc. Even the Plant & Machinery is identified in terms of the operations such as Alcohol, Power Plant, Potable Liquor, Bio composting, Boiler. Now we have seen above that the applicant has sold the Buildings and the Land and the Plant and Machinery by separate Deeds. What I intend to put across is that the immovable portion i.e the Land and the Building which housed the plant & machinery were sold separately. The applicant's treatment of the transaction itself negates any doubts as to the plant & machinery being immovable assets. Nevertheless I do not go by the treatment alone. I have reproduced the Schedule 2 above and it shows that the same is a listing of the movable machinery and equipments. The argument that the civil work carried out leads to the machinery being immovable property is not by any means an argument in correct appreciation of facts and laws. During hearing the applicant's attention was invited to the case law in Commissioner of Central Excise, Ahmedabad v. Solid and Correct Engineering Works [(2010) 5 SCC 122] in which the Hon. Supreme Court had taken strenuous pains to expound and enlighten as to what constitutes immovable property. The Hon. Court had to deal with the argument, as in the present case before me, that the machinery become immovable as they are fixed to a foundation imbedded in earth. Thus, the Hon. Supreme Court was faced with the question of what constitutes movable and immovable property. I would reproduce the relevant portion thereof thus –

"18. It is not the case of the respondents that plants in question are per se immoveable property. What is argued is that they become immovable as they are permanently imbedded in earth in as much as they are fixed to a foundation imbedded in earth no matter only 1= feet deep. That argument needs to be tested on the touch stone of the provisions referred to above. Section 3(26) of the General Clauses Act includes within the definition of the term "immovable property" things attached to the earth or permanently fastened to anything attached to the earth. The term "attached to the earth"; has not been defined in the General Clauses Act, 1897. Section 3 of the Transfer of Property Act, however, gives the following meaning to the expression "attached to the earth":

(a) rooted in the earth, as in the case of trees and shrubs;

(b) imbedded in the earth, as in the case of walls and buildings;

(c) attached to what is so imbedded for the permanent beneficial enjoyment of that to which it is attached."

19. It is evident from the above that the expression "attached to the earth" has three distinct dimensions, viz. (a) rooted in the earth as in the case of trees and shrubs (b) imbedded in the earth as in the case of walls or buildings or (c) attached to what is imbedded for the permanent beneficial enjoyment of that to which it is attached. Attachment of the plant in question with the help of nuts and bolts to a foundation not more than 1= feet deep intended to provide stability to the working of the plant and prevent vibration/wobble free operation does not qualify for being described as attached to the earth under any one of the three clauses extracted above. That is because attachment of the plant to the foundation is not comparable or synonymous to trees and shrubs rooted in earth. It is also not synonymous to imbedding in earth of the plant as in the case of walls and buildings, for the obvious reason that a building imbedded in the earth is permanent and cannot be detached without demolition. Imbedding of a wall in the earth is also in no way comparable to attachment of a plant to a foundation meant only to provide stability to the plant especially because the attachment is not permanent and what is attached can be easily detached from the foundation. So also the attachment of the plant to the foundation at which it rests does not fall in the third category, for an attachment to fall in that category it must be for permanent beneficial enjoyment of that to which the plant is attached.

20. It is nobody's case that the attachment of the plant to the foundation is meant for permanent beneficial enjoyment of either the foundation or the land in which the same is imbedded.

21. In English law the general rule is that what is annexed to the freehold becomes part of the realty under the maxim *quicquid plantatur solo, solo cedit*. This maxim, however, has no application in India. Even so, the question whether a chattel is imbedded in the earth so as to become immovable property is decided on the same principles as those which determine what constitutes an annexation to the land in English law. The English law has evolved the twin tests of degree or mode of annexation and the object of annexation. In *Wake V. Holt* (1883) 8 App Cas 195 Lord Blackburn speaking for the Court of Appeal observed:

"The degree and nature of annexation is an important element for consideration; for where a chattel is so annexed that it cannot be removed without great damage to the land, it affords a strong ground for thinking that it was intended to be annexed in perpetuity to the land."

22. The English law attaches greater importance to the object of annexation which is determined by the circumstances of each case. One of the important considerations is founded on the interest in the land wherein the person who causes the annexation possesses articles that may be removed without structural damage and even articles merely resting on their own weight are fixtures only if they are attached with the intention of permanently improving the premises. The Indian law has developed on similar lines and the mode of annexation and object of annexation have been applied as relevant test in this country also. There are cases where machinery installed by monthly tenant was held to be moveable property as in cases where the lease itself contemplated the removal of the machinery by the tenant at the end of the tenancy. The mode of annexation has been similarly given considerable significance by the courts in this country in order to be treated as fixture. Attachment to the earth must be as defined in Section 3 of the Transfer of Property Act. For instance a hut is an immovable property, even if it is sold with the option to pull it down. A mortgage of the super structure of a house though expressed to be exclusive of the land beneath, creates an interest in immovable property, for it is permanently attached to the ground on which it is built.

23. The courts in this country have applied the test whether the annexation is with the object of permanent beneficial enjoyment of the land or building. Machinery for metal-shaping and electro-plating which was attached by bolts to special concrete bases and could not be easily removed, was not treated to be a part of structure or the soil beneath it, as the attachment was not for more beneficial enjoyment of either the soil or concrete. Attachment in order to qualify the expression attached to the earth, must be for the beneficial attachment of that to which it is attached. Doors, windows and shutters of a house are attached to the house, which is imbedded in the earth. They are attached to the house which is imbedded in the earth for the beneficial enjoyment of the house. They have no separate existence from the house. Articles attached that do not form part of the house such as window blinds, and sashes, and ornamental articles such as glasses and tapestry fixed by tenant, are not affixtures.

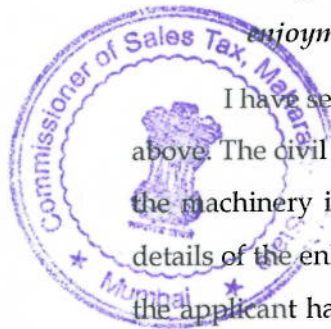
24. Applying the above tests to the case at hand, we have no difficulty in holding that the manufacture of the plants in question do not constitute annexation hence cannot be termed as immovable property for the following reasons:

- (i) The plants in question are not per se immovable property.
- (ii) Such plants cannot be said to be "attached to the earth" within the meaning of that expression as defined in Section 3 of the Transfer of Property Act.
- (iii) The fixing of the plants to a foundation is meant only to give stability to the plant and keep its operation vibration free.
- (iv) The setting up of the plant itself is not intended to be permanent at a given place. The plant can be moved and is indeed moved after the road construction or repair project for which it is set up is completed."

For the record, I would like to emphatically state herein that the aforesaid case law is referred to understand the principles and to determine these principles, the Hon. Court has certainly not referred to the facts of the case before it but to the relevant definitions and judicial history. Therefore, the argument that the case law would not apply is incorrect. Having said so, I

refer to the principles which fortify my observation, and the earlier Commissioner's, as well, that the impugned plant & machinery constitutes movable property -

- i. *The expression "attached to the earth" has three distinct dimensions, viz.*
 - (a) *rooted in the earth as in the case of trees and shrubs*
 - (b) *imbedded in the earth as in the case of walls or buildings or*
 - (c) *attached to what is imbedded for the permanent beneficial enjoyment of that to which it is attached.*
- ii. *Attachment of the plant to the foundation is not comparable or synonymous to trees and shrubs rooted in earth.*
- iii. *Attachment of the plant to the foundation is also not synonymous to imbedding in earth of the plant as in the case of walls and buildings, for the obvious reason that a building imbedded in the earth is permanent and cannot be detached without demolition.*
- iv. *Imbedding of a wall in the earth is also in no way comparable to attachment of a plant to a foundation meant only to provide stability to the plant especially because the attachment is not permanent and what is attached can be easily detached from the foundation.*
- v. *The attachment of the plant to the foundation at which it rests does not fall in the third category, for an attachment to fall in that category it must be for permanent beneficial enjoyment of that to which the plant is attached.*



I have seen the photographs and the Schedule 2, the items of which have been reproduced above. The civil work carried for the installation of machinery can in no way be said to mean that the machinery is attached to the foundation which is for permanent beneficial enjoyment. The details of the enlisted machines and equipments show that they constitute movable property and the applicant has also treated these machinery as movable by enacting separate agreements for movable and immovable property. From the total consideration for the transfer of business, the consideration on account of the movable plant and machinery is available. In view thereof, the ratio of the decisions of the Hon. MSTT in *Johnson & Johnson Ltd., v. State of Maharashtra* (Second Appeal No. 1340 of 2005, decided on June 16, 2012) and *Nicholas Piramal India Ltd. v. State of Maharashtra* (39 MTJ 325) would perfectly apply to the facts of the present case and thereby, the consideration received for the plant & machinery as found in Schedule 2 would be exigible to tax under the MVAT Act, 2002. The observations of the Hon. MSTT in these cases could be seen thus -

M/s. Johnson & Johnson Ltd., Appellant V. The State Of Maharashtra (cited supra)

The facts were such that the agreement provided for purchase price as a lump sum consideration for sale of business undertaking as going concern for Rs. 27,78,10,000/-. Out of this, total consideration as per Deed of Assignment, the price for goodwill was shown separately at Rs. 2,60,00,000/-. This price was agreed upon by the buyer as well as the seller though it was shown for the purpose of stamp duty. The Hon. MSTT held that -

"This can be constituted as an independent agreement within main agreement. One can read two agreements within one agreement. So this is constituted as an independent agreement. Hence we conclude that this is a separate agreement within a main agreement. In case of M/s. T.P. Sokkatal Ramsait Factory Pvt. Ltd. v. Deputy Commissioner of Sales Tax (110 STC 419) lordships observed that "What is a sale of goods ? Section 4(i) of the Sale of Goods Act defines it as a contract of sale of goods whereby the seller transfers or agrees to transfer the property in the goods to the buyer for a price. The essential elements of a sale are : (1) goods, (2) seller and the purchaser, (3) agreement between them for sale and purchase, (4) transfer of property in the goods from seller to buyer as a result of the agreement between them, and (5) the price being the consideration for the transfer of property under the agreement. In each case, the facts will have to be examined to see whether all these elements are present. If any one or more of them is absent, the conclusion is inevitable that the facts do not constitute a sale of goods."

12. We observed in this case on facts that there is a separate agreement within a main agreement for sale of goods at Rs. 2,60,00,000/- and it fulfills all the above mentioned criteria. Therefore, we have no hesitation to uphold the levy of tax of the assessing authority and confirmed in the first appeal."

The applicant had filed Reference Application against the aforesaid decision which was dismissed on dt.01.11.2012 (**M/s. Johnson & Johnson Ltd. v. State of Maharashtra (Reference Application No. 79 of 2012)**). One of the grounds pleaded was that the nature of the contract would not be affected by the fact that the components of the various contract amounts or the prices were shown separately and therefore even if the goodwill is valued and shown separately in the deed of assignment, it makes no difference and the sale remains that of going concern. The Hon. MSTT was not convinced with the case laws cited by the applicant and observed that when the applicant themselves valued the goodwill and the same was shown in the deed of assignment, it was not correct for the applicant to plead that there was no sale of goodwill.



In respect of the above case, it was observed, thus, in the in the earlier determination order-

"Thus, it can be seen that where the purchase price for the sale of a business undertaking as a going concern was fixed not as a lump sum consideration but a bifurcation thereof was available, then the same could be made taxable in so far as it related to the sale of goods taxable under the Sales Tax statutes."

Nicholas Piramal India Ltd. v. State of Maharashtra (cited supra)

The facts were that the appellant had entered into an agreement with an individual Mr. T. R. Choudhari (TRC), who was the sole proprietor of a business concern known as "M/s. Electro Optics and Controls" which had its factory at Rishikesh in Uttar Pradesh and head office in Mumbai (Mulund). By this Agreement, which was entered into in Mumbai, the Appellant purchased from TRC certain "specified assets" i.e. Land and Building of the Rishikesh Factory, plant and machinery in the Rishikesh Factory, inventory of products, and IPR. This purchase was made for total consideration of Rs.220 lakhs which was split up in the Agreement in various components as follows :

Rishikesh land & Building	25
Plant & machinery	15
Non Compete	25
Inverters & IPR	155
Total	220

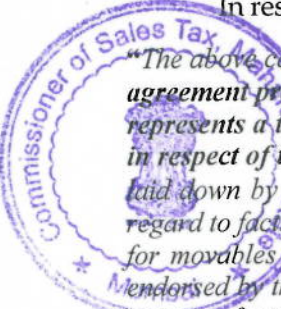
With regard to the above facts, the Hon. MSTT observed thus -

“.....even if the Agreement is held to postulate transfer of whole of business as contended by Mrs. Rangnekar, it may not necessarily mean that it does not involve sales of moveables liable to tax under the Sales Tax Law. In other words, transfer of whole of business does not necessarily mean that it does not involve sales of moveables, taxable under the Sales Tax Law. If the Agreement for the transfer of whole of business is for lump sum consideration, it may not involve sales of moveables taxable under the Sales Tax law. But if the transfer of whole of business is for a consideration which is categorically agreed to be split up item-wise, then it may involve sales of moveables taxable under the Sales Tax Law. In that view of the matter, according to us, even if the transaction is held to be of transfer of whole of business as contended by Mrs. Rangnekar, it may be legally permissible to levy tax on the sales of moveables for the reason of the consideration having been split up item-wise.

.....
it would be of no assistance to plead that this transfer would not constitute any sales/purchases of moveables liable to tax under the Sales Tax Law. As stated earlier, even a transfer of entire business may involve sales/purchases of moveables liable under the Sales Tax Law depending on the Terms of the Agreement. Transfer of entire business does not necessarily imply that it does not involve sales/purchases of moveables. In that view of the matter, a question may arise on the basis of the aforesaid case of M/s. Sunderdas Harjiwan (supra) as to whether the Tribunal in the present case was legally justified in holding that there was no transfer of entire business. But that is really not the decision which has affected the Appellant's tax liability. The real decision which has affected the tax liability is to hold that the impugned transaction involves sales/purchases of moveables liable to tax under the Sales Tax Law, and no question in that regard arises on the basis of the aforesaid case of M/s. Sunderdas Harjiwan (supra).

Same is the position so far as the other judicial authorities are concerned viz. Allahabad High Court case of M/s. Shri Ram Sahai (supra) and Kerala High Court case of M/s. Zacharia (supra). These cases merely show in which circumstances the transfer can be said to be of entire business, but they do not show as an uncontroverted position that the transfer of entire business would always and necessarily not involve sales/purchases of moveables liable to tax under the Sales Tax Law. No doubt, in the case of M/s. Zacharia (supra), the receipts on account of transfer of entire business were held as exempt from tax, but that was because of the specific provisions in the Kerala General Sales Tax Act to allow deduction from the taxable turnover in respect of "all amounts realised by a dealer by the sale of his business as a whole". The High Court held on the particular facts that there was transfer of the entire business and accordingly, the said deduction was allowed thereby deleting the tax levied by the Revenue on the amount received by the Assessee by virtue of the transfer. Such a deduction as obtaining in Kerala General Sales Tax law is not there in the Bombay Act, and hence the said judgment would not be helpful for referring any question.”

In respect of the above case, it was observed, thus, in the in the earlier determination order-



“The above case was decided on dt.29.11.2008. The Hon. MSTT has very clearly held that if the terms of agreement provide for a item-wise split-up of the consideration then, despite the fact that the transaction represents a transfer of running business, there is no bar to levy sales tax on the consideration received in respect of the moveable goods involved therein. The Hon. MSTT has discussed the legality of the ratios laid down by the Hon. Courts in the matter of sale of running business and distinguished the same with regard to facts such that there was no lumpsum consideration but a bifurcation of the same in terms of price for movables was available. The same ratio, as comes out from this judgment dt.29.11.2008, has been endorsed by the Hon. MSTT in M/s. Johnson & Johnson Ltd., Appellant v. The State of Maharashtra (cited supra) referred to hereinafter. I would like to mention here that, in cases where the situation was not so or where there was a lumpsum consideration, the Hon. MSTT has held that the sale of running business was not taxable. In the case of M/s. Sealants and Gasket Industries v. State of Maharashtra (2006-(034)-MTJ - 0122), the Hon. MSTT remarked that the agreement did not show any intention to effect a separate sale of movables for certain specific consideration. Thus, the ratio that comes out the Hon. MSTT decisions is to treat sales of movables taxable under the Sales Tax Law in case of transfer of whole of business for a consideration which is categorically agreed to be split up item-wise. Further, the decisions of the Hon. Courts are on the issue of lumpsum consideration and in respect of provisions not pari materia with the ones under the Maharashtra Sales Tax statutes.”

It was in view of the aforesaid decisions that my predecessor in the earlier determination order had held that the consideration on account of movable goods, tangible as well as intangible, e.g., plant and machinery was exigible to tax as the consideration therefor was distinctly identifiable out of the total consideration for the transfer of business. In view thereof, I find that the consideration on account of plant & machinery as found in Schedule 2 is on account of movable goods and is, certainly, not for immovable property.

With regard to reliance on the aforesaid two decisions of the Hon. MSTTT, the applicant has placed reliance on a decision of the Hon. MSTT in M/s. Lark Engineering (SA No. 40 of 1997 dt.07.04.2000). With regard to the same, I have to observe that the said case law of M/s. Lark Engineering (cited supra) is not on the direct issue that is faced before me. In M/s. Lark Engineering (cited supra), as relied on by the applicant, the bifurcation of land and machinery was not available but a collective value was available. The present circumstances are not so. We have seen above that the decisions of the Hon. MSTT as relied on by me as well as by my predecessor, are on the very issue that is being dealt with in the present applicant's case. Therefore, my treatment to the bifurcation as available is supported by the decisions of the very Hon. MSTT.

04. In view of the deliberations held hereinabove, I determine thus -

ORDER

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

No.DDQ-11/2013/Adm-6/23/Remand-2016/B-1

Mumbai, dt. 22.03.2017

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

1. Following the Hon. Maharashtra Sales Tax Tribunal decisions in Johnson & Johnson Ltd., v. State of Maharashtra (Second Appeal No. 1340 of 2005, decided on June 16, 2012) and Nicholas Piramal India Ltd. v. State of Maharashtra (39 MTJ 325), the determination order No.DDQ-11/2013/Adm-6/23/B-4 Mumbai, dt.20.10.2014 has rightly determined that the split-up of the consideration as available from the Agreements would render the transaction to the extent of the consideration received on account of the movable assets to be a 'sale' of goods for the purposes of the Maharashtra Value Added Tax Act, 2002.
2. Schedule 2 enlisting plant and machinery represents movable goods.
3. Tax would be leviable on the consideration on account of plant and machinery.


(RAJIV JALOTA)

COMMISSIONER OF SALES TAX,
MAHARASHTRA STATE, MUMBAI