**Read :** Application dt.04.09.2012 by M/s. Kapsons Industries Limited.
**Heard :** Sh. Vijay Kendhe, Chartered Accountant, and Sh. Naresh Prabhu, General Manager, Kapsons Industries.

# PROCEEDINGS

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

**No.DDQ-11/2012/Adm-6/31/B-** 1 **Mumbai, dt.** 9|3|2016

The applicant, M/s. Kapsons Industries Limited, holder of TIN 27050648608V, situated at Gat No.754, Sanaswadi, Taluka Shirur, Pune-412208 seeks to know the rate of tax on the following products :

| Bill no. & dt. | Description | Product type |
|---|---|---|
| 318 dt.28.07.2012 | Motor Stamping RTR HC4 420MM 60 SLOT M47 FRAME CG410-10224 LOOSE | Rotor Stamping in loose condition |
| | Motor Stamping RTR HC5 440MM 60 SLOT M47 FRAME CG520-10196 M47 | Rotor Stamping in loose condition |
| | Motor Stamping STR HC4 420MM 60 SLOT M47 FRAME CG410-10225 LOOSE | Stator Stampings in loose condition |
| | Motor Stamping STR HC5 440MM 60 SLOT FRAME CG462-10020 M47 | Stator Stampings in loose condition |
| 347 dt.31.07.2012 | Motor Stamping STR ECP 3 100MM NON SILICON LOOSE DRG NODIS A3951-02 | Stator Stampings in loose bunch |

## 02. FACTS & CONTENTION

The application states thus :

- The applicant is a company registered under the Indian Companies Act, 1956 having its registered office at G T Roadsuranussi, Jalandhar, Punjab and factory at Gat No.754, Sanaswadi, Taluka Shirur, Pune 412 208, Maharashtra, India. They are manufacturer of armatures and electro stampings for electric motors fans, generators, railway diesel engines and other electrical appliances and products as well as manufacturers of silicon sheets and install furnaces, rolling mills, draw mills for rolling sheets, brites bars and electric motors, fans and other such electric appliances and machines for use in Mechanical and electrical industries. The applicant informs to selling the goods to Cummins Generator Technologies India Ltd., Ahmednagar-414 111, Maharashtra & MECC Alte India Pvt. Ltd., Sanaswadi – Talegaon road Pune in the invoices attached for determination. The applicant informs to have charged tax @12.50% for the precaution. However, it is informed that similar products are charged @ 5% in the State of Harayana.
- PROCESS DESCRIPTION OF STAMPINGS AND LAMINATIONS
  Kapsons Ind. Pvt. Ltd. is one of the leading manufacturer of Electrical Stampings. The basic raw material used in this process is Electrical sheets being purchased from reputed vendors such as SAIL etc.
  Process used in the manufacturing of stampings is mentioned below:
  The sheet received from the vendor is stacked in the sheet godown. As per the production order received from the PPC deptt Shearing section cut the sheets into sizes on shearing and slitting m/c according to the controlled drawings.
  Then the sheared sheets are sent to Press section where the required blanks are punched out from the sheared strips. After that the blanks are sent to another section where they are slotted as Stator and Rotor laminations.
  After the completion of slotting operation the Stator and Rotors are transferred to packing section where they are packed as per the required core length.
  In case of CRNO material is directly transferred to the hydraulic presses for cleating and rivetting operation, but in case of CRCA material is sent to Decarburising section for reducing carbon percentage and after this treatment the material is sent to hydraulic section for cleating and rivetting.

After cleating and rivetting the material is finally inspected and is transferred to the Despatch section from where they are despatched to their destination.

When there is customer demand for Diecasted Rotors then the loose Rotors are sent to the Rotor Diecasting seciton where Aluminium is poured into the Dies and filled in Rotors. Then with the use of pressure the aluminium is filled into the rotor and also collors are made on both sides of the Rotors with Aluminium

Then after the inspection of Die casted Rotors the same are shifted to Despatch section.

## 03. HEARING

The case was taken up for hearing on dt.18.11.2015. However, none attended. Hence, a hearing was scheduled on dt.09.12.2015. However, an adjournment was sought. Hence, the hearing was scheduled for the next date of 06.01.2015. Sh. Vijay Kendhe, Chartered Accountant and Sh. Naresh Prabhu, General Manager, Kapsons Industries attended the hearing. The proceedings during hearing are thus :

- The product for determination is mentioned as 'Motor Stamping'.
- The invoices show sale of stator stampings and rotor stamping, both in loose condition.
- It is informed that the applicant has collected tax @ 12.5% on the sale of the products.
- It was requested that the product be classified as an industrial input so that rate of tax thereon would be 5%. It was submitted that the products are not for consumption directly but they are parts of electric motor, generators, alternators, etc.
- They were queried about the Excise Heading applicable to the products. It was informed that that the same is 85030029. It was brought to their notice that the said Excise Heading has not been notified for the purpose of the notification under the entry for Industrial Inputs.
- They pointed to the impugned products being charged at a lower rate in States such as Punjab (entry for Motor Stampings), Haryana (entry for DC Micromotors/Stepper motors of an output not exceeding 375 Watts and Parts), Andhra Pradesh (entry for Electric Motors and parts thereof), West Bengal (entry for Motor, operated electrically or otherwise and parts thereof).

## 04. OBSERVATION

I have gone through the facts of the case. The impugned products are 'Motor Stampings' (Rotor and Stator Stampings). It is informed that these are used for electric motors fans, generators, railway diesel engines and other electrical appliances and products. The stator is the outer stationary part of the motor while the rotor is a moving component of a rotary system, found in electric generators, electric motors, sirens, or biological rotors. I find that there is no specific schedule entry for these products under the Maharashtra Value Added Tax Act, 2002 (MVAT Act,2002). The applicant requests to consider these products as industrial inputs for the reasoning that the products are not for consumption directly but they are parts of electric motor, generators, alternators, etc. The entry for industrial inputs under the MVAT Act,2002 reads thus -

***Industrial inputs and packing materials as may be notified, from time to time, by the State Government in the Official Gazette.***

It can be seen that the entry speaks of a notification which enlists the products to be falling in this entry. Thus, it is not the case that all goods which are industrial inputs stand covered by the entry. It is only those goods which have been specified in the notification that fall in the notification and thereby, enjoy the concessional rate of tax. Further, the notification makes a reference to the Central Excise Tariff. To ascertain whether the impugned goods are notified for the purposes of the entry, the applicant was asked to state the Excise Tariff heading under which the impugned products are cleared. It was informed that the Tariff Heading applicable is 85030029. I find that the aforesaid Tariff Heading has not been specified in the notification. The Tariff Heading 8503 is for "Parts suitable for use solely or principally with the machines of heading 8501 or 8502". Headings 8501 and 8502 are for "Electric motors and generators (excluding generating sets)" and "Electric generating sets and rotary converters", respectively. None of these descriptions are notified for the purposes of the notification for industrial inputs.

Though the applicant has not referred to the schedule entry C-56 which is for "*IT products as may be notified by the State Government from time to time*.", I find that the notification thereunder which is also made referential to the Central Excise Tariff has the following description :

| Heading No. | Sub Heading No. | Tariff Item No. | Description |
|---|---|---|---|
| - | - | **8501 10 11** | **DC Micro motors of an output not exceeding 37.5 Watts.** |
| - | - | **8501 10 12** | **DC Stepper Motor of an output not exceeding 37.5 Watts.** |
| **8503** | - | - | **Parts of goods specified in sub-heading 8501 10 11 and 8501 10 12** |

The description against the headings 8501 and 8503 under the Central Excise Tariff is :

| | |
|---|---|
| 8501 | Electric motors and generators (excluding generating sets) |
| 8501 10 | *- Motors of an output not exceeding 37.5 W :* |
| | ***- - - DC motor :*** |
| **8501 10 11** | **- - - Micro motor** |
| **8501 10 12** | **- - - Stepper motor** |

| | |
|---|---|
| 8503 | Parts suitable for use solely or principally with the machines of heading 8501 or 8502 |
| 8503 00 | *- Parts suitable for use solely or principally with the machines of heading 8501 or 8502:* |
| 8503 00 10 | - - - Parts of generator (AC or DC) |
| | ***- - - Parts of electric motor :*** |
| 8503 00 21 | **- - - Of DC motor** |
| **8503 00 29** | **- - - Other** |
| 8503 00 90 | - - - Other |

It can be seen from the above that -

- *From the Heading 8501, the notification covers only DC motors - DC Micro motor and DC Stepper motor.*
- *The notification does not cover Heading 8502 for Electric generating sets and rotary converters .*
- *From the Heading 8503, the notification does not cover parts of Electric generating sets and rotary converters.*
- *From the Heading 8503, the notification covers only parts of DC motors - DC Micro motor and DC Stepper motor.*

The impugned products are covered under the Tariff Heading 85030029 which as can be seen from the above is for parts of 'Other electric motors' and not for parts of 'DC electric motors'. Since the impugned products are not parts of DC electric motors, more specifically DC Micro motor and DC Stepper motor, they are not covered by the notification under the schedule entry C-56. During hearing, the applicant had informed that the impugned goods are used for electric generating sets and we have seen above that the notification does not cover parts of Electric generating sets.

Since the issue above is of parts of motors, I find that in Sahney Steel & Press Works Ltd. (104 STC 41 AP), the Hon. High Court has held that stampings and laminations cannot be regarded as parts of electric motors. However, since the impugned Tariff Heading of 85030029 and the description therefor has not been notified for the purposes of the schedule entry C-54 or C-56, I refrain from entering into any discussion or referring to case laws to ascertain the issue as to whether the impugned products could be regarded as parts of motors or, as the case may be, otherwise. As observed earlier, there is no specific entry for the impugned products and the products are also not notified as Industrial Inputs. In view thereof, the products fall in the residuary schedule entry E-1, thereby liable to tax @12.5%. The applicant has been rightly collecting tax @12.5% on the sale of the impugned products.

The applicant has referred to the schedule entries in some of the States. With regard to the same, I have to observe that the position in other States cannot be a measure to decide the tax rate. The decision always rests on the position as is appearing in the statute under consideration. In the present case, the situation is so that there is no specific entry for the impugned products. And it therefore, can be understood as to the reason for the applicant to request considering the products in the lower tax slab. As regards the request to consider the impugned products as industrial inputs, I have to observe that the said request cannot be dealt with in the present proceedings. Under section 56 of the MVAT Act,2002, I am empowered to decide the rate of tax on the basis of the available provisions and not on external considerations such as 'what ought or should have been' or the position as in other statutes and States, as well.

**05.** In the circumstances, it is ordered thus -

## ORDER

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

**No.DDQ-11/2012/Adm-6/31/B-** 1 **Mumbai, dt.** 9/3/2016

The rate of tax on the following products is 12.5% being covered by the residuary schedule entry E-1 of the Maharashtra Value Added Tax Act, 2002 :

| Bill no. & dt. | Description | Product type |
|---|---|---|
| 318 dt.28.07.2012 | Motor Stamping<br>RTR HC4 420MM 60 SLOT M47<br>FRAME CG410-10224 LOOSE | Rotor Stamping in loose condition |
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| | Motor Stamping<br>STR HC4 420MM 60 SLOT M47<br>FRAME CG410-10225 LOOSE | Stator Stampings in loose condition |
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(RAJIV JALOTA)

COMMISSIONER OF SALES TAX,
MAHARASHTRA STATE, MUMBAI

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