

Read :- 1. Application dated 27/9/2005 by M/s. S.R. Screen Printers, holder of TIN No. 27320060591V.

2. Additional submission dt. 6/11/2007 by the applicant.

Heard :- Smt. Rupa Gami & Mahendra Gami, Advocates.

PROCEEDINGS

(under Section 56(1) (e) and Section 56(2) of the Maharashtra Value Added Tax Act, 2002)

No. DDQ-11/2005/Adm-5/83 /B- 5

Mumbai, dt. 31.12.2007

The application is filed by M/s. S.R. Screen Printers, having address as 204, Veena Dalwai Industrial Estate, S.V. Road, Near Ajit Glass Works, Oshiwara, Jogeshwari, requesting determination order as to the rate of tax on certain products described below:

TABLE 1

<i>Sr.No.</i>	<i>Particulars of Products</i>	<i>Invoice No.</i>	<i>Date</i>
1.	‘Dry Jar (PVC Label)	59	14/7/2005
2.	Packing Slip (Paper Label)	59	14/7/2005
3.	‘Chhota price bada kam’ (PVC Label)	59	14/7/2005
4.	Apoxy DOM Label ‘eagle’	59	14/7/2005
5.	Flowers Sticker (Thin film sticker)	59	14/7/2005
6.	Cloth Sticker ‘Sparsh’	59	14/7/2005

2. FACTS OF THE CASE

The applicant informs that he is carrying on the business of manufacturing various types of printed material i.e. stickers or labels as per the orders of his customer and he is charging 4% VAT as per the Maharashtra Value Added Tax Act, 2002. The applicant therefore seeks determination in regard to the rate of tax leviable under the Maharashtra Value Added Tax Act, 2002 on the products i.e. stickers, labels so manufactured by him and described in table no.1 above.

The process of manufacturing of the products, as given by the applicant, is described below:

PRINTED STICKERS/LABELS

1. Cloth label : Printing on cloth by screen and printing and gumming by screen by hand process and cutting by hand or punching by machine in different shapes.
2. Car and Bike Graphic (Stickers):Printing on PVC by hand and process on gummed material.
3. PVC Stickers :Printing by hand process on screen by PVC colour and gumming, cutting by hand or cutting and punching.
4. Paper Stickers :Printed by offset on screen, printing colours by offset process on paper with or without BOPP laminating .
5. DOM Label: Printed by hand process and after cutting and punching label coated by Resin and hardner.
6. Thin Film Label: Printed by offset and gumming by screen and cutting and punching by machine.

The applicant has stated that he charges 4% VAT Tax as per entry 76 of schedule C as appended to the Maharashtra Value Added Tax Act, 2002. In the alternative, it is contended that the products are covered by schedule entry C-54 of the MVAT Act,2002. It is stated that the Government has issued a notification dt.1/4/2005 under entry 54 of Schedule 'C' read with notification notifying various types of goods being industrial input and packing materials liable to tax @ 4% in which serial number 162 refers to excise tariff 39.19. This tariff heading reads as under "Self adhesive plate, sheet, film, foil, tape, strip of plastic whether or not in rolls." In the same notification dt.1/9/2005, at serial No.227 excise heading 4821 is notified which reads as "Paper or paper board labels of all kinds, whether or not printed". It is contended that the labels being covered by the notification are taxable @ 4%.

3. CONTENTION

In short, the contention of the applicant is that Printed/labels/stickers fall under entry 76 of Maharashtra value Added Tax Act, 2002 and liable to tax @ 4% under MVAT Act, 2002. In the alternative, the applicant submits that the above referred stickers and labels fall under excise tariff 39.19 and liable to tax @ 4%. In support of this, he has relied on the judgement of Hon. Maharashtra Sales Tax Tribunal in the matter of Advance Marks and Labels Pvt. Ltd.(Appeal 80 of 2003 dt .8/10/2004) the photocopy of which is enclosed.

It is further requested by the applicant that prospective effect be given to the determination order from the date on which the determination order would be passed.

4. HEARING

The case was fixed for hearing on 6/11/2007. Smt. Rupa Gami and Shri Mahendra Gami, Advocates, attended for the hearing. They informed that determination is sought on three categories of labels i) Paper labels ii) PVC labels and iii) cloth labels. All labels are used for industries and are fixed on products. None of the labels are sold to final consumers. The flowers stickers and the PVC labels as also the Ferrari logo labels are sold to car manufacturers. He has contended that all these labels are industrial inputs. The PVC labels are called as self adhesive plates and plates is an international term for labels. They referred to ELT decision in the case of Johnson and Johnson wherein PVC labels are considered to be covered by 3919.

5. DECISION

I have gone through the facts of the case. The products submitted for determination and the respective invoices under which they are sold are given in the following table:

<i>Sr.No.</i>	<i>Particulars of Products</i>	<i>Invoice No.</i>	<i>Date</i>
1.	Dry Liquid Jar (PVC Labels)	59	14/7/2005
2.	Packing Slip (Paper Labels)	59	14/7/2005
3.	Chhota price bada kam (PVC Labels)	59	14/7/2005
4.	Apoxy DOM Labels	59	14/7/2005
5.	Flowers Stickers (PVC Labels)	59	14/7/2005
6.	Cloth Stickers (Cloth Labels)	59	14/7/2005

I would take up the matter of classification as per the material from which the labels are made of. Broadly the labels are categorized into three groups :-

1. Paper labels which are self adhesive paper labels.
2. PVC Labels which are also self adhesive plastic labels.
3. Cloth Labels.

A) PAPER LABELS:

The contention is that paper labels are 'printed material' covered by schedule entry C-76 and is taxable @ 4%. The entry is reproduced as below:

<i>Schedule entry</i>	<i>Description</i>
C-76	Printed material including annual reports, application forms, account books, calendars, diaries, catalogues, race cards and publications which mainly publicize goods, services and articles for commercial purposes.

A. WHETHER PRINTED MATERIAL?

I would now deal with the contention of the applicant that his products are 'printed material' covered by schedule entry C-76 and thereby taxable @ 4%. I have already reproduced the entry under consideration.

The wordings of the entry are very important and self explanatory. It says that 'printed material including annual report, application form.....' are covered by the scope of the concerned entry. The entry covered 'printed material' which are in the nature of those commodities which are self-sufficient printed material. Annual reports, calendars, application forms are stand-alone goods which are not used as accompaniments to any other product. They are self sufficient printed material and they are not adjuncts of other goods. These products are bought for the contents. It is held by the CEGAT in a landmark judgement of M/s Metagraphs Pvt. Ltd., (26 ELT 66) that 'printed aluminum labels' are not the product of the printing industry but the products of the packing industry. While observing so, the Tribunal has made the following remarks which explains the matter lucidly:-

"All these products (printed books, news paper, book dictionary, printed books, printed drawing book, cheque form, test card) are self sufficient matter; they are not simply adjuncts of other goods, products or equipment but are themselves brought for the contents, i.e. printed matter on them. They derive nothing from another product. The information that they carry and convey to the reader is full and complete and sufficient to the extent that it tells the reader what he needs to know even when the subject matter dealt in the printed matter may be hundreds of miles away. The printing on the printed matter is a whole substance and the printed matter is brought for itself and it is itself a good value for its printed contents..... From this it follows that ... Printed label and printed packing papers do not form goods of commerce and trade except to the person who is going to use them on his goods. They are used only as adjuncts of the products they contain or the equipment to which they are affixed. Hence, printing on the label is merely incidental to its use as label and therefore label will not read as a product of a printing industry".

The Tribunal has very clearly observed that labels are not printed material. Therefore, the labels, be it paper the PVC or cloth, will not be the products of the 'printing industry' and not being printed material shall not be covered by schedule entry C-76.

B. WHETHER INDUSTRIAL INPUTS?

In the alternative, it is contended by the applicant that the labels are covered by excise tariff heading 4821 which is listed at serial No.227 under schedule entry C-54.

Needless to say, the schedule entry for industrial inputs C-54 covers only those inputs and packing material which are meant for industrial use. This was clearly laid down in the MSTT decision in the case of M/s. Samruddhi Industries (Appeal No.54 of 2004 dt.28/2/2005). In this case the issue was whether plastic products like Ghamela, crates which are made for household purposes would be covered by schedule entry for industrial inputs C-I-29 under the BST Act. This appeal to the MSTT was against the determination order given by the Commissioner of Sales Tax u/s 52 of the BST Act, 1959. The Commissioner in the said case had explained that in order to qualify as an industrial input, the product must be a raw material by nature and it should be an input i.e. it should be used as inputs or raw material for industries and secondly it should be covered by the relevant excise heading under consideration. The Tribunal was pleased to uphold these observations made by the Commissioner in the appeal before it. I will therefore apply these criteria and the parameters laid down to the instant case before deciding the classification.

I would mention here as a matter of abundant caution that this determination order is only on the particular paper label which is submitted before me for determination and is not to be construed as a determination order determining the rate of tax on all self-adhesive paper labels.

Both the entry under consideration and the excise tariff heading are reproduced for a proper understanding of the matter:

<i>Schedule entry</i>	<i>Description</i>
C-54	Industrial inputs and packing materials as may be notified from time to time by the state Government in the Official Gazette.

<i>Excise heading</i>	<i>Description</i>	<i>Period</i>
4821	Paper Printed labels and paper board printed labels.	1.4.2005 to 31.8.05

<i>Tariff Heading</i>	<i>Description</i>	<i>Period</i>
4821	Paper or paper board labels of all kind, whether or not printed.	1.9.05 onwards

I have seen the sample of the paper label. The paper label is self adhesive. The words 'packing slip' are written on it along with the fields like item, date, quantity, counted by etc. The label, by the look of it, is meant for commercial use in industries as labels which are put on products in order to denote the description of the products, the quantity of the product and the date on which the product is packed. The paper label before me is not a type of label which is affixed on birthday gifts nor it can be used by children for labeling books etc. This is a typical industrial label. Therefore the paper label satisfies the first criteria i.e. it is not used for domestic/household purposes but is used as packing material/input for industries. It can be safely concluded that it is an industrial input meant as a raw material for industries.

The second question is now whether this particular paper label satisfies the description of excise heading 4821. **The applicant has not produced the excise invoice showing clearance under the heading.** Keeping this fact in mind, I will have to rely only on the description of the heading as provided in the HSN.

EXPLANATORY NOTES :

The heading which was notified for the purpose of C-54 is as follows:-

‘..This heading covers all varieties of paper and paperboard labels of a kind used for attachment to any type of article for the purpose of indicating its nature, identity, ownership, destination, price, etc. They may be of the stick -on type (gummed or self-adhesive) or designed to be affixed by other means , e.g string.

These labels may be plain, printed to any extent with characters or pictures, gummed, fitted with ties, clasps, hooks or other fasteners or reinforced with metal or other materials. They may be perforated or put up in sheets or booklets....’.

THE explanatory notes indicate that a wide variety of paper labels are covered by the heading 4821. The word 'labels' is specifically mentioned and described by it and this is a fact which goes in favour of the applicant.

I now come to the heading as notified under the VAT Act. It is seen from the aforesaid that the heading which was notified for the purpose of schedule entry C-54 in existence from 1/4/2005 to 31/8/2005 covered only printed paper board labels and printed paper labels. Thus, only printed labels were covered by the heading. After 1/9/2005 both printed and blank paper labels are covered by the said heading. The product under consideration is a printed label. Therefore the exclusion to blank labels from 1/4/2005 to 31/8/2005 does not apply to the said product. However, the question remains as to whether the entry as existing from 1/4/2005 to 31.8.05 includes self adhesive labels as the words ‘of all kinds’ which are in the original heading are missing from the notified heading for the period 1/4/2005 to 31/8/2005. However, this question is addressed to and discussed in the determination order in the case of M/s. Coats and Packs (DDQ-11/2001/41/B-1 dt 8.3.02). The determination order was given on the excise heading 4821 as notified under the BST Act which is similar to the excise heading as prevalent in the VAT Act from 1/4/2005 to 31/8/2005. In the said order it was held that though the words ‘of all kinds’ are missing, the entry would cover self adhesive paper labels. It was observed by the Commissioner therein that though the words of all kinds

are absent in the notified heading this deletion does not in any way part the adhesive printed labels from the entry. The printed labels can be self adhesive or not self adhesive.

The question whether 'self adhesive labels' are covered by the notified heading 4821 for the purpose of the VAT Act or not does not exist for the period starting from 1/9/2005 as that heading includes paper labels of all kinds. This heading is reproduced exactly from the corresponding excise heading under the Central Excise Tariff Act and explanatory notes given to the CET Act heading express that self adhesive labels are also covered by this heading. The question is for the limited period from 1/4/2005 to 31/8/2005. Therefore self adhesive printed labels are covered by schedule entry C-54 from 1/4/2005 being covered by the excise heading 4821.

The conclusion drawn by me is based on the following:

- The product which is not meant for retail purposes but which is clearly an input used in industries.
- **No excise invoice is produced which weakens the case of the applicant.** However, the explanatory notes clearly explain the scope of the heading. The product falls within the explanation provided in the HSN.
- The determination of the Commissioner in the case of M/s Coats and Packs(cited supra) which provides a precedent. **Thus the conclusion is reinforced by the precedent mentioned by me as also by the nature, utility and make of the specific paper label before me.**

2) CLOTH LABEL:

Regarding cloth label, it is contended by the applicant that the product would be also taxable @ 4% being covered under entry C-101 under notification at serial no.17 under tariff heading 5807. Schedule Entry C-101 are reproduced here as under.

<i>Schedule entry</i>	<i>Description</i>	<i>Period</i>
C-101	Varieties of sugar, tobacco, textile and textile	1.4.05 to date

<i>Schedule entry</i>	<i>Description</i>	<i>Period</i>
	articles as may be notified from time to time by the State Government in the Official Gazette	

<i>Excise heading</i>	<i>Description</i>	<i>Period</i>
5807	Labels, badges and similar articles or taxable material in the piece in strips or cut to shape or size, not embroidered.	1.4.05 to date

This is also a notified entry where heading 5807 is borrowed from the CET Act. The heading under the CET Act reads as follows:-

<i>Excise heading</i>	<i>Description</i>
5807	Labels, badges and similar articles or taxable material in the piece in strips or cut to shape or size, not embroidered.

It would be also very useful and relevant to refer to the explanatory notes published in the HSN as they give an idea of the scope of the entry as also of the products which would be covered by it.

The explanatory notes are reproduced as follows :

5807.10 - Woven

5807.90 - Other

Subject to the conditions specified below this heading covers:

(A) Labels of any textile material (including knitted). These include labels of a kind used for marking wearing apparel, household linen, mattresses, tents, soft toys, other goods. They are utilitarian labels bearing individual inscriptions or motifs. Such labels include, inter alia, commercial labels bearing the trade name

or trade mark of the manufacturer or the nature of the constituent textile ("silk", "viscose rayon", etc.) and labels used by private individuals (boarding school pupils, soldiers, etc.) to identify their personal property; the latter variety sometimes bear initials or figures or comprise sometimes a framed space to take a hand-written inscription.

(B) Badges and similar articles of any textile material (including knitted). This category includes badges, emblems, "flashes", etc., of a kind normally sewn to the outer part of wearing apparel (sporting, military, local or national badges, etc., badges bearing the names of youth associations, sailors' cap badges with the name of a ship, etc.)

The description given under 'A' is very clear. It says that this heading covered labels of all kind used for marketing apparel, linen, mattresses, games, soft toys or other labels. The cloth stickers in the present case is a types of label which is a commercial label bearing the trade mark and trade name of the manufacturer or the nature of the taxable goods. The cloth stickers reads as 'Sparsh'. This is a label which bears the brand name of the manufacturer. The explanatory notes clearly cover such label under heading 5807. The applicant has not produced the excise invoice showing that this particular product is cleared under excise heading 5807. But by relying on the explanatory notes , I hold that the 'cloth label 'Sparsh' is covered by entry C-101.

At the cost of repetition , I shall give the reasons for holding so:

- The product is not meant for retail purposes and is clearly an input used in industries.
- **No excise invoice is produced which weakens the case of the applicant.** However, the explanatory notes clearly explain the scope of the heading. The product falls within the explanation provided in the HSN.

- The determination of the Commissioner in the case of M/s Coats and Labels which provides a precedent. Thus the conclusion is reinforced by the precedent mentioned by me as also by the nature, utility and make of the specific paper label before me.

3) PVC LABELS:

The applicant has also placed for determination certain labels which are described by the applicant as 'self-adhesive PVC labels.' The PVC labels as per the sample given are of the following types.

(A) Dry jar/liquid jar PVC labels. This PVC labels carries the following words :

- dry jar.
- roasted cereals, dry masala, dal, roasted coffee, paper, turmeric, red chillies and other dry items etc.

Caution: Do not run the mixture without locking lid or dome.

(B) PVC Labels:- "Chotta price bada kam". The label carries the following description:

Domestic mixer grinder

Liquids	1 Litre.
whip	500 ml.
crush	300 gm.
dry grind	300 gm.
wet grind	400 gm.
blend	1 Liter
mince	400 gm.

(C) Flowers stickers:- This has a picture of flowers and leaves.

(D) Epoxy DOM labels: It shows a picture of a eagle .

(E) Vinyl PVC stickers for car: It shows the picture of horse on its hind legs. This is a popular Ferrari logo.

It is contended by the applicant that the PVC labels are not household items. They are sold to manufacturers who then use them for affixing on the product manufactured by them. The applicant have also referred to the MSTT decision in the case of M/s. Advance Marks and Labels, wherein it was held that PVC self adhesive plastic printed labels and stickers are covered by the then schedule entry for industrial inputs C-129. The present contention is that the product is covered by schedule entry C-54 as an industrial inputs and coming under excise heading 3919. Both the excise heading and the notified heading are reproduced as below.

<i>Sr. No.</i>	<i>Excise heading</i>	<i>Description</i>
162	3919	Self adhesive plates, sheets, film, foil, tape, strip and other flat shapes of plastics, whether or not in rolls.

The heading covers self adhesive plates and what is sold is PVC label, As in the case of the other products, no excise invoice is produced by the applicant. Therefore, there is no proof that this product is cleared under the heading claimed. I have only the HSN notes to guide me and the following are reproduced.

The explanatory notes in the HSN explain the heading as follows :

EXPLANATORY NOTES :

"This heading covers all self-adhesive flat shapes of plastic, whether or not in rolls, other than floor, wall or ceiling coverings of heading 3918. This heading, is however,limited to flat shapes which are pressure sensitive i.e which at room temperature, without wetting or other addition, are permanently tacky (on one or both sides) and which firmly adhere to a variety of dissimilar surfaces upon mere contact, without the need for more than finger or hand pressure.

It should be noted that this heading includes articles printed with motifs, characters or pictorial representations, which are not merely incidental to the primary use of the goods."

What immediately strikes one about the explanation is that the heading does not anywhere mention the word label. It covers all flat shapes of plastic. Note that whereas the other headings like heading 4821 and heading 5807 clearly and specifically cover labels, the term is noticeably absent from both the description of heading 3919 as well as the explanatory note to it.

The applicant has relied heavily on the decision of the MSTT in the case of M/s Advance Marks and Labels (cited supra) wherein it was held by the MSTT that the sales of 'Temperproof labels' i.e self-adhesive printed labels of plastic are covered by Notification Entry 139 issued under schedule entry C-I-29 appended to the BST Act and are liable to tax @ 4%. The Tribunal after going through the facts of the case has held the following.

- Plate is the same as labels and this conclusion was reached on the basis of a Chinese Company brochure .
- The PVC labels in the case were used as inputs in industries and therefore are industrial inputs as it is used for fixing on machine like Videocon Washing Machine etc.
- Printed PVC labels are covered by excise heading 3919 and are therefore covered by the then entry for 'industrial inputs' schedule entry C-I-29 and therefore taxable @ 4%.
- The applicant has also placed reliance on the judgment of the ELT in the case of Johnson and Johnson (88 ELT 465).

A reference application was filed against the MSTT decision in the case of M/s. Advance Marks and Labels. However, the reference application was rejected by the Tribunal and it was observed that on the facts of the case the plate and the label are not

different commodities but one and the same. The catalogues of the Chinese Company were also produced and it was observed by the MSTT that the product was similar to that of the appellant i.e. M/s. Advance Marks and Labels. On the basis of these facts, it was held by the Tribunal that the plate and the label are not different commodities.

Keeping in mind the above observations of the MSTT, I will decide the determination application :

1) **Dry jar liquid jar PVC labels.** It is observed by me that, this is a label containing instructions on the way of using a Mixer. This sticker is normally put on a mixer jar. By virtue of the fact that they are not available for retail sales and, more so, because they are not of any use to any retailer, they satisfy the criteria of an industrial input.

2) **Chhota price bada kam PVC Label:** This label also contains instructions and directions as to the capacity of a mixer jar. This is meant for supply to manufacturers who affix them on the mixer jar.

3) **Apoxy DOM label:** It contains the picture of eagle.

4) **Flowers Sticker:** This is a sticker depicting picture of flowers and leaves.

5) **PVC sticker for Car** shows the picture of a horse on hind legs. As mentioned earlier, it is a popular Ferrari logo.

The PVC labels mentioned at 1) 2) & 3) are industrial inputs as they are not meant for non-industrial use. In fact, they cannot be used in retail and would not find any use in retail. However, I have to observe with respect to the flower sticker and Ferrari logo that they are not industrial labels. They are available for retail and can be bought by anyone for affixing them on an item which may be a car, bag or any item of personal ware. I have already clarified that in order that a product qualifies as an industrial input it should be directly intended for industrial use. Goods meant for retail purpose are not covered for the purpose of schedule entry C-54. The intention of taxing the goods covered by C-54 was to tax inputs at a lower rate and not finished products.

The sum and substance of the above is that, items at Sr. No. 1, 2 & 3 satisfy the first criteria of a industrial input. Items at Sr. No. 4 & 5 do not satisfy the parameters or the criteria laid down by the Commissioner in the case of M/s. Samrudhi Industries and confirmed by the Tribunal in the same case(cited supra). I will therefore, now proceed to see whether the items listed at 1, 2 & 3 fulfill the other criteria.

The other criteria is that the products claimed as industrial input should be covered by the description mentioned against the heading under which they are purported to be covered. In support of his claim the applicant has placed reliance on the MSTT judgment in the case of M/s. Advance Marks and Labels. The MSTT has held that the product **manufactured by the appellant** is a self adhesive printed plastic labels covered by 3919. However, I wish to observe the following:

- This judgement is by no means an all encompassing decision covering all types of PVC printed labels available under the sun. It is to be noted that this judgment is on the facts of the case.
- **The appellant had proved that the products manufactured by the Chinese Company are similar to his products** and on the basis of these observations it was concluded by the MSTT that the plate is equivalent to a label.
- The MSTT has unequivocally stated that the judgment is on facts of the case and not on the point of law and it is on the basis of this reason that the reference application to the High Court was rejected. **Therefore, it is open for me to decide on the facts of the case as to whether the PVC label are covered by the excise heading 3919.**
- **The MSTT had observed in clear terms that the appellant has cleared the products under excise heading 3919, which is not the case here.**

Thus the judgement of the Tribunal in the case of M/s. Advance Marks and Labels is distinguishable and being based on the peculiar facts of the case, it can be consequentially distinguished on facts. I have already observed earlier that on the basis

of the function of the products, the items listed at 1, 2 & 3 are industrial inputs in nature whereas the items at 4 & 5 are not.

- **It is very essential to note that the appellant has not produced any evidence before me or any documentary evidence supporting his claim that the products are covered by excise heading 3919.** Therefore, the argument of the applicant in this case loses conviction in the face of lack of substantial documentary evidence supporting his claim.
1. I have insisted on such a documentary proof mainly because the description given in excise heading 3919 and the description of the products is different. In the case of paper labels and cloth labels ,though the documentary proof is not produced the description given in the explanatory notes in HSN matches the description of the product. But such is not the case for plastic labels. The heading 3919 covers self adhesive plastic plate. However, in the case of PVC Labels the description given against heading 3919 is of 'plate' whereas the applicant describes his product as a 'label'. The explanatory notes do not say, expressly or in any implied way, that labels are covered by the heading.
 2. The applicant described his product as self adhesive printed plastic labels. In Advance Marks and Labels (cited supra) it was proved before the Tribunal that the Chinese manufacturer produced items which were similar to that of the appellant. But,the applicant in the instant case has not produced any proof that the products produced by him are called as 'plates' in the international market nor have I come across any opinion available which corroborates the stand of the applicant. I therefore, have no hesitation in holding that all the five labels produced before me are not industrial inputs for the purpose of schedule entry C-54.
 3. The applicant has relied on the judgement of M/s. Johnson & Johnson (cited supra). In the case of M/s. Johnson & Johnson the issue was whether printed PVC labels are the product of printing industry or are covered by excise heading 3919. I

have already mentioned earlier that the question of whether a product is an industrial input or not is always dependent upon the facts of the case. The CEGAT judgment was on the product which was before it and therefore it is not applicable to the present case.

6. PRAYER FOR PROSPECTIVE EFFECT U/S.56(2) OF THE MVAT ACT

The applicant has made a prayer that the liability be protected up to the date of determination order in the event of the determination order not being held in their favor. The section 56(2) empowers the Commissioner to protect the liability of the applicant as respect in sale or purchase effected prior to the determination. The protection of liability is an action which is to be taken judiciously and cannot be granted arbitrarily in each and every case. It depends upon the facts of the case.

In the present case, I find that the applicant was guided by the decision of the Tribunal in the case of M/s. Advance Marks and Labels (cited supra). However, I have already observed that the decision of the Tribunal is based on facts. Therefore, the decision not being on a point of law, was not applicable on all fours. The applicant could not have been misguided by the said MSTT decision.

In view of the above, I reject the plea for prospective effect.

7. In view of the aforesaid discussion, I passed the order as follows:-

O R D E R

(under Section 56(1) (e) and section 56(2) of the Maharashtra Value Added Tax Act, 2002)

No. DDQ-11/2005/Adm-5/83 /B- 5

Mumbai, dt. 31.12.2007

1. The products sold by the applicant and the tax rate thereon is given in the following table :

<i>Sr.No.</i>	<i>Particulars of Products</i>	<i>Invoice No.</i>	<i>Date</i>	<i>Schedule entry</i>	<i>Rate of tax</i>
1.	'Dry Jar (PVC Label)	59	14/7/2005	E-1	12.5%
2.	Packing Slip (Paper Label)	59	14/7/2005	C-54	4%
3.	'Chhota price bada kam' (PVC Label)	59	14/7/2005	E-1	12.5%
4.	Apoxy DOM Label 'eagle'	59	14/7/2005	E-1	12.5%
5.	Flowers Sticker (Thin film sticker)	59	14/7/2005	E-1	12.5%
6.	Cloth Sticker 'sparsh'	59	14/7/2005	C-101	4%

2. The prayer of prospective effect u/s 56(2) of the MVAT Act is rejected for reasons given in the order.

SANJAY BHATIA
Commissioner of Sales Tax,
Maharashtra State, Mumbai