Read:- 1.(a) Applications dt. 07/11/2005 from M/s. Preston India Private Limited., holder of BST R.C.No. 421302/S/2108 dt. 01/04/2000.

(b) Applications dt. 07/11/2005 from M/s. Elastrex Polymers Pvt Ltd.., holder of BST R.C.No. 421302/S/2002 dt. 22/09/1999.

2. This office letters dt. 22/02/2007 calling both the applicants for hearing on 06/03/2007.

Heard:- Shri Leo Thomas, Branch Manager, alongwith Shri. Jin Jose, Area Sales Manager, attended in both the cases on 06/03/2007.

PROCEEDINGS

(Under section 56 of the Maharashtra Value Added Tax Act,2002)

No.DDQ-11-2005/Adm-5/93-94/B-2 Mumbai,dt.26.4.2007
91-92

This is a set of two applications from two applicants involving a common issue as regards determination of the rate of tax applicable to the product footwear. Hence, it is decided to pass a common order. The products put up for determination are as follows:-

Sr. No.	Name of the applicant	Name of the product	Invoice No.& Dt.	Amount
1.	M/s. Preston India Private Limited	Walkie (Chappal)	INV/325/05-06 dt. 22/08/2005	36,936
2.	M/s. Preston India Private Limited	Paralite (EVA Chappal) (Black, N.Blue, Gray, E-Blue)	INV/038/05-06 dt. 29/06/2005	21,272
3.	M/s. Elastrex Polymers Pvt. Ltd.	1. Aviva (Footwear) 2. Max (Footwear) 3. Slickers (Footwear)	INV/225/05-06 dt. 07/11/2005	43,731
4.	M/s. Elastrex Polymers Pvt. Ltd.	1. Easee (Footwear) 2. Camry (Footwear) 3. Slickers (Footwear)	INV/113/05-06 dt. 06/07/2005	51,577

02. FACTS OF THE CASE

[A] M/s. Preston India Private Limited

The applicant is a registered dealer of footwear products operating from Bhiwandi and having manufacturing centres and Head Officer at Bangalore. The description of the two products put up for determination, as submitted by the applicant is as follows :-

[i] Walkie Chappal - with upper part made of man-made fabric with plastic coated on it and sole made of Hawaii (rubber) Sheet and EVA pad.

[ii] EVA Chappal – with sole and strap made of Ethylene Vinyl Acetate Copolymers and stud made of PVC compound.

MANUFACTURING PROCESS
The manufacturing process as submitted by the applicant is as follows :-

[i] Walkie Chappal

(a) of sole : The sole comprises of two layers, i.e. bottom and upper. Bottom layer is made with hawaii sheet and that of upper layer with EVA pad. Hawaii sheet is manufactured internally using raw materials like natural rubber, synthetic rubber, reclaimed rubber, china clay, rubber oil, etc. EVA pad is purchased from outside.

(b) of upper : The main raw material, plastic coated man-made fabric, which is in sheet form is first cut into various pieces of different shapes and sizes; which will then be stitched together using nylon and cotton thread, will become stitched upper.

(c) of assesmbling : Assembling is done by pasting bottom layer and upper layer of sole using certain adhesives like neoprene bond, p.u. adhesive etc.,

[ii] EVA Chappal

(a) **of sole :** The raw material Ethylene Acetate Copolymers, popularly known as EVA, which is in granule form is injected into the mould of various shape and size to produce sole with strap attached with it.

(b) **of stud :** The raw material, PVC compound which is in granule form is injected into the mould of various shape and size of stud.

(c) **of assesmbling :** The process consists of fitting stud in the holes of sole and strap produced as above.

[B] M/s. Elastrex Polymers Pvt Ltd

The applicant is a registered dealer of footwear products operating from Bhiwandi and having manufacturing centres and Head Officer at Banglore. The description of the two products put up for determination, as submitted by the applicant is as follows :-

[i] Black Shoes - with upper made of Man-made fabric with plastic coated on it and sole made of Polyurethane

[ii] Chappal - with upper made of Man-made fabric with plastic coated on it and sole made of Polyurethane.

MANUFACTURING PROCESS

The manufacturing process as submitted by the applicant is the same for both the impugned products **(Black Shoes and Chappal)** as follows :-

[i] Black Shoes

(a) of sole : The raw material polyurethane, which is in liquid form is poured into the metal mould of various shape and size, which is then put into the electric oven for drying and then in the Enamel dipping machine for polishing. After that, the same is sent to Assembling section for assembly.

(b) of upper : The main raw material, plastic coated man-made fabric, which is in sheet form is first cut into various pieces of different shapes and sizes as per the design of each type of shoe, which will then be stitched together using nylon and cotton thread. This will then become the stitched upper.

(c) of assesmbling : The sole and upper as manufactured above are then sent through assembling line for assembling. Assembling is done by pasting using certain adhesives like neoprene bond, p.u. adhesive etc., For giving shape to the shoe at assembling stage, Last LB **(**Last LB is a mould used for giving shape to the footwears of different shape and size**)** is put inside till the assembling process ends.

[ii] Chappal

(a) of sole : The raw material polyurethane, which is in liquid form is poured into the metal mould of various shape and size, which is then put into the electric oven for drying and then in the Enamel dipping machine for polishing. After that, the same is sent to Assembling section for assembly.

(b) of upper : The main raw material, plastic coated man-made fabric, which is in sheet form is first cut into various pieces of different shapes and sizes as per the design of each type of shoe, which will then be stitched together using nylon and cotton thread. This will then become the stitched upper.

(c) of assesmbling : The sole and upper as manufactured above are then sent through assembling line for assembling. Assembling is done by pasting using certain adhesives like neoprene bond, p.u. adhesive etc., For giving shape to the shoe at assembling stage, Last LB **(**Last LB is a mould used for giving shape to the footwears of different shape and size) is put inside till the assembling process ends.

03. CONTENTION AND HEARING

It is the contention of both the applicants that, the products are covered by the schedule entry C-74 of the Maharashtra Value Added Tax Act, 2002 and thereby taxable @ 4%.

The case was taken up for hearing on 06/03/2007. Shri Leo Thomas, Branch Manager, alongwith Shri. Jin Jose, Area Sales Manager, attended in both the cases.

03. OBSERVATIONS

I have gone through all the facts of the case. The issue before me pertains to the rate of tax applicable to 'footwear'. Under the Maharashtra Value Added Tax Act, 2002, we have the following schedule entry

C-74	Plastic footwear	4%	1.4.2005 to 30.4.2005
C-74	Plastic footwear **(moulded) : hawaii chappals and straps thereof;**	4%	1.5.2005 to till date

As can be seen from the above entry that, for the month of April, 2005, the entry C-74 covered all types of 'plastic footwear'. However, from May, 2005, the entry sought to cover only 'moulded' plastic footwear. In the light of the above changes to the entry C-74, let me now ascertain the coverage of the impugned products under the said entry.

(i) Walkie Chappal, (ii) Black Shoes, (iii) Chappal

The applicant has submitted the samples of the products. It can be seen that, the products are not entirely plastic products. They consist of other raw materials like rubber, etc. The manufacturing process of the products, as submitted by the applicant, speaks about other activities like stitching, pasting, etc. Hence, the products cannot be said to be as being produced in a single mould.

Hence, the product would not be covered by the entry C-74 for reasons as follows:-

1.4.2005 to 30.4.2005	The product cannot be called a 'plastic footwear '.
1.5.2005 to till date	The product cannot be called a moulded 'plastic footwear'

(iv) Paralite (EVA Chappal)

The applicant has submitted the sample of the product. It can be seen that, the product is a plastic product. However, the chappal cannot be said to be an entirely moulded product. The sole and strap are made in the same mould. However, the manufacturing process of the same, as submitted by the applicant, speaks about fitting a stud in the hole of the sole and strap. Thus, the entire chappal cannot be said as being produced in a single mould.

For the month of April,2005, the product being a plastic footwear would be covered by the entry C-74. Due to the amendment to the schedule entry C-74 effected in May,2005, only moulded plastic footwear would be covered by the said entry. Hence, the product would not be covered by the schedule entry C-74 from May, 2005 onwards.

04. In view of the deliberations held herein above, I pass an order as follows:-

ORDER

(Under section 56 of the Maharashtra Value Added Tax Act, 2002)

No.DDQ-11-2005/Adm-5/93-94/B-2 Mumbai,dt. 26.4.2007
91-92

This set of four applications from two applicants posing a common question for determination as regards the rate of tax applicable to footwear is herewith answered as follows :-

Sr. No.	Name of the applicant	Name of the product	Schedule entry	Rate of tax	Period
1.	M/s. Preston India Private Limited	Walkie (Chappal)	E-1	12.5%	1.4.2005 onwards
2.	M/s. Preston India Private Limited	Paralite (EVA Chappal) (Plastic Footwear) (Black, N.Blue, Gray, E-Blue)	C-74	4%	1.4.2005 to 30.4.2005
			E-1	12.5%	1.5.2005 onwards
3.	M/s. Elastrex Polymers Pvt. Ltd.	1. Aviva (Footwear) 2. Max (Footwear) 3. Slickers (Footwear)	E-1	12.5%	1.4.2005 onwards
4.	M/s. Elastrex Polymers Pvt Ltd	1. Easee (Footwear) 2. Camry (Footwear) 3. Slickers (Footwear)	E-1	12.5%	1.4.2005 onwards

(B. C. KHATUA)
Commissioner of Sales Tax,
Maharashtra State, Mumbai.