Read:- 1. Application dated 7th July, 2005 under Section 56 of the Maharashtra Value Added Tax Act, 2002 by M/s. Karan Enterprises.

2. This office letter dated 06/01/2006 and 16/1/2006 calling the applicant for hearing on 18/1/2006.

Heard:- Shri Ashok Parikh, Prop. and Shri R. S. Pathak, S.T.P.

PROCEEDINGS

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

No.DDQ-11-2005/Adm-5/46/B- 9 Mumbai, dt. 31/03/2006

An application is received form M/s. Karan Enterprises, having its office at 203, Keytuo Industrial Estate, Kondivita Village Road., Next to PDI, Marol , MIDC, Andheri (East), Mumbai 400 059. The applicant has sought to determine the correct classification and rate of tax in respect of his product "STANWHITE DM-01" -printing paste sold vide the sales invoice No.48 dated 25/6/2005.

02. FACTS OF THE CASE

The applicant M/s. Karan Enterprises is an importer of "textile printing inks". The product is also known in the trade as "printing paste". The product is water based but is in thick paste form having white colour. It is mainly used for printing various designs, logos, slogans, pictures, etc. on textile fabrics and readymade garments with the help of screens. In commercial circles and amongst many end users, the activity or process is popularly called "Screen Printing". The main ingredients of the said white printing inks are acrylic binder and titanium dioxide. In case of clear paste, acrylic binder is used. However, in the market, there is another type of ink, which has solvent oil base having PVC, plastisizer, solvents, etc. as its main ingredients. Both these inks, irrespective of whether they are water based or solvent based, can be used for printing-screen printing on variety of substratum, such as textiles, paper, plastic, etc.

Screen printing is one of the kinds of printing, though the substratum of each differ. The method of screen printing involves an activity wherein the material or the substratum on which printing is to be done, is laid or spread on a big-sized table. Thereafter, the screen on which the required design is engraved, and which is in the form of fine mesh with openings, is placed thereon. Inks are spread on the screen and squeezed with the help of rubber squeezer through the design of the screen so that the ink gets deposited on the substratum used, which may be a textile fabric, readymade garment (e.g. T. Shirts, banners, paper, plastic sheets or goods, wedding cards, , etc.).

The said product is cleared by the applicant from the Customs and the custom duty is assessed under the Customs Tariff Head No. 3215.90. It is submitted by the applicant that even the leading Indian manufacturers are classifying the said product under the same Custom Tariff Head. The foreign supplier of the applicant at Taiwan is disputing the said classification. According to him, the goods are fit to be covered by the Customs Tariff Code No. 38099.9100 which pertains to finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations, of a kind used in the textile, paper, leather or like industries.

03. CONTENTION AND HEARING

In order to confirm his belief regarding the correct classification of his product, the present application is being made.

On the above facts, it is argued by the applicant that the product is covered by the Central Excise Tariff heading 3215.90. It is brought to my notice that even Customs have cleared the goods under the Central Excise Tariff heading 3215.90. He further states that other Indian manufacturers are clearing the goods under the Central Excise Tariff heading 3215.90. It is the applicant's contention that, since the excise heading 3215.90 is covered by the notification issued for the purpose of schedule entry C-54, the same is covered by the scope of the schedule entry C-54 which pertains to industrial inputs. Chapter heading 32.15 pertains to printing, writing or drawing and other inks, whether or not concentrated or solid. It is argued that the product is used for screen printing and can be used to print on a wide variety of materials, mainly, fabrics and readymade garments. The applicant, in his application, further relies upon the dictionary meaning of the word 'printing' and the technical specifications of the product.

Shri Ashok Parikh, proprietor and Shri R. S. Pathak, S.T.P attended the hearing on 18/1/2006. The facts as mentioned in the application were reiterated during the hearing.

In the alternative, it is argued that the product may also be covered by the scope of the entry 77 of schedule C of the Maharashtra Value Added Tax Act, 2002 which pertains to printing and writing inks including toner and cartridge.

04. OBSERVATIONS

I have gone through the applicant's contention and also scrutinized the details submitted by the applicant. The applicant is an importer of the product known as "STANWHITE DM-01". The said product is cleared by the Customs under the Customs Tariff heading 3215.90. The Customs heading 32.15 pertains to printing inks, writing or drawing inks and other inks whether or not concentrated or solid. The scope of printing inks as described in the notes to the HSN is as follows :-

32.15(A)	Printing inks (or colours) are pastes of varying consistency, obtained by mixing a finely divided black or coloured pigment with a vehicle. The pigment is usually carbon black for black inks and may be organic or inorganic for coloured inks. The vehicle consists of either natural resins or synthetic polymers, dispersed in oils or dissolved in solvents, and contains a small quantity of additives to impart desired functional properties.

The applicant's product is mainly used for printing on textiles. It is used for printing various designs, logos, pictures, etc., on textile fabrics and readymade garments with the help of screens. This activity is popularly called as "Screen Printing". There is another Entry 38.09 under the Customs Tariff. This heading pertains to " *Finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs and other products and preparations (for example, dressing and mordants), of a kind used in the textile, paper, leather or like industries, not elsewhere specified or included."*

It requires now to decide whether the appropriate classification of the applicant's product heading is 38.09 or 32.15. The description of sub-heading 38.09 will show that the products which are classified under this heading are mainly the finishing agents, dye carriers to accelerate the dyeing or fixing of dyestuffs. The applicant's product is certainly not a finishing agent. It is used for printing on textiles and therefore, according to me, the appropriate classification is 32.15 of the Customs Tariff Act.

Let me reproduce the heading 3215.90 as under Central Excise and as appearing in our notifications dt. 1/4/2005 and 1/9/2005 issued for the purposes of the entry C-54.

Heading 3215	dt. 1/4/2005 Sub-Heading 3215.90	dt. 1/9/2005 Heading 3215
Printing ink, writing or drawing ink and other inks, whether or not concentrated or solid.	Printing ink whether or not concentrated or solid.	Printing ink, writing or drawing ink, whether or not concentrated or solid.

The Customs have cleared the said goods under the Customs Tariff Heading 32.15. In view of the above, I hereby hold that the applicant's product "STANWHITE" is covered by the Customs Tariff heading 32.15. The heading 3215.90 is covered by the notification dated 1/4/2005 issued for the purpose of the entry C-54 pertaining to industrial inputs. This notification is for the period from 1/4/2005 to 31/8/2005. The heading is also covered by the new notification dt. 1.9.2005 issued for the purposes of the entry C-54. This new notification has replaced the earlier notification dated 1/4/2005 w.e.f. 01/09/2005. The entire excise heading of Chapter 32.15 gets covered by the new notification dt. 1/9/2005 issued for the purposes of the schedule entry C-54 on industrial inputs. The rules of interpretation of the notifications state that, "where the description against any heading or, sub-heading or as the case may be, tariff items, matches fully with the corresponding description in the Central Excise Tariff, then all the commodities covered for the purposes of the said tariff under that heading or sub-heading or as the case may be, tariff item, will be covered by the scope of this notification".

In view of the above rule of interpretation, the applicant's product gets covered by the scope of both the notifications [dt. 1/4/2005 and 1/9/2005].

05. I therefore, hold that, the applicant's product is covered by the schedule entry C-54 of the Maharashtra Value Added Tax Act, 2002 which pertains to industrial inputs w.e.f. 1.4.2005, thereby attracting a tax @ 4%.

In view of the discussion held hereinabove, I proceed to pass an order as follows:

ORDER

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

No.DDQ-11-2005/Adm-5/46/B- 09 Mumbai, dt. 31.03.2006

The applicant's questions as regards whether the product "STANWHITE-DM-01" sold vide the invoice No. 48 dt. 25/6/2005 of Rs. 3900/- is a printing ink covered within the scope of the entry C-54 for industrial inputs is herewith answered in the affirmative and the rate of tax thereon is 4%.

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

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