

- Read :- 1. Application dated 28/05/2005 from M/s. Ortho-Royal Inc., holding Registration Certificate No. 400072/S/5306.
2. This office letter dated 06/10/2005 seeking clarification on certain issues as regards the determination.
3. This office letter dated 25th January, 2006 calling the applicant for hearing on 1st February, 2006.
- Heard:- Shri. Vijaykumar Choudhary, husband of proprietor attended on 1st February, 2006.

PROCEEDINGS

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

No.DDQ11-2005/Adm-5/ 34 /35/36/37/38/39/40/41/42/43/B- 5 Mumbai, dt 26 APR 2006

This is a set of ten applications posing questions for determination as regards the rate of tax applicable to the sales of similar products. Hence, it is decided to pass a common order deciding the question put up for determination. The products put up for determination alongwith their sale bills are as follows :-

Sr.No.	Name of the commodity	Invoice No.	Date
1.	Leather Diabetic /Arthritic Shoes (PC-803)	240	29/05/2005
2.	Ortho-Wedge Heeling Shoes (Code 807)	806	10/11/2005
3.	Arthritic/ Diabetic Insoles (Code 942)	248	07/06/2005
4.	Ortho Silicone Heel Cushion – L (Code No. 917)	141	07/05/2005
5.	¾ Flat Foot Insoles (Code No. 922)	20	11/04/2005
6.	Aerobic / Court / Cross Trainer Insoles (Code 940)	260	01/06/2005
7.	Ortho Gel Insoles (Code 929)	239	29/05/2005
8.	Metatarsal Pads (Code 955)	151	07/05/2005
9.	Gel Toe Spreader (Code No. 919)	143	07/05/2005
10.	Adjust – A – Lift Heel Cushion (Code 926)	148	07/05/2005



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02. DETAILS SUBMITTED BY THE APPLICANT

The applicant has submitted the following details alongwith the application.

- 1) Copy of the sales invoices of all the ten products put up for determination.
- 2) Proof of payment of fees.
- 3) Letter authorizing Shri Vijaykumar Choudhary, to attend on behalf of the applicant.
- 4) Copy of the Registration Certificates under the Bombay Sales Tax Act, 1959 and the Central Sales Tax Act, 1956.
- 5) Copy of the Bill of Entry for Home Consumption for some of the products.
- 6) Copies of the price lists, invoices indicating classification under Central Excise Tariff Act of some of the products.
- 7) Technical literature/ catalogue of the products.
- 8) Brouchers/Literature/Manuals etc. of the following.
 - a) Orthopadic and skin care catalogue of the products marketed by M/s. Endolite India Ltd of the products mark.
 - b) Product index of MGRM Medicare Ltd.
 - c) Catalogue of Vissco Rehabilitation Aids Pvt. Ltd.

03. BACKGROUND OF THE CASE

The applicant is a regular importer of the products put up for determination. The material is provided by the applicant. The products are got made on local basis from specialized foot wear manufacturers in Mumbai. The products for determination could be seen in detail.

1. **Leather Diabetic / Arthritic Shoe (PC 803) :** It is made of rocker bottom sole and full grain leather upper with soft lining of either suede, EVA or Napha which gives feet most comfortable and protective feeling. It has broad and big toe and the shape of the insoles can be vised according to individual patient's requirement. The shoe is full of features like rocker sole which leads to better dispersion of plantar pressure. Big and broad toes offer movement of toes. Flashed heel reduces impact at the heel at the time of strike, antiskid friction sole offers controlled motion, inner lining keeps feet dry and velcro closure helps in



adjusting to different size of foot as per daily needs. It looks identical to normal shoes but is packed with full features for diabetic & arthritic feet.

The upper material for preparing the shoes is supplied by the applicant. The designed is also supplied by the applicant. The shoe is made on customized basis as per the needs of the patients.

2. Wound Management Shoes - Ortho-Wedge Heeling Shoes (Code No. 807) :

These are specially designed to help reduce pressure from the metatarsal heads and digits. a) Tailors Bunions b) Hallux Valgus c) Diabetic Ulcers d) Osteotaries. Ortho -Wedge heeling shoes provide pressure relief from heel to toe.

The upper material for preparing the shoes is supplied by the applicant. The designed is also supplied by the applicant. The shoe is made on customized basis as per the needs of the patients.

3. Arthritic/ Diabetic Insoles - Diaba (Poron Plastazote therapeutic insoles) (Code 942) :

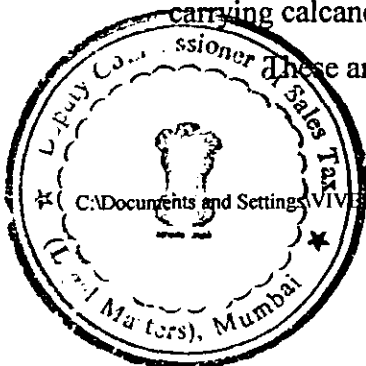
Diaba Insoles is total contact orthotic designed to support the foot and reduce plantar pressure for the insensate diabetic foot or the hyper sensitive rheumatoid foot from shock, pressure and shear. The low density Urethane (Poron) cradles the foot and provides extra cushioning when the foot is at heel strike and throughout toe-off. The Plastazote top takes the shape of the wearer's foot and provides protection against shearing in the area of bony prominence.

The PPT Sheets are imported from U.S.A. and the product is made on customized basis.

4. Silicone Heel Cushions - Ortho-Silicone Heel Cushions (Code 917) :

It's antishock gel heel is orthotic designed to reduce stress to the joints and spine even under constant pressure. By unloading the heel a shock observing effect is accomplished, not only to the joints, and spine but also the muscles suitable for continuous wear. Due to abnormal growth of calcaneum bone, the formation of spur on the bottom of the heel leads to chronic pain. These heel cushions have variable density to cut off the shock thus generated and reduce ground reactive forces thereby minimizing the impact leading to enable patients to walk while carrying calcaneum spur deformity.

These are imported by the applicant.



5. **Flat Foot Insoles - 3/4 Flat Foot Insoles (Code 922) :** The product provides relief from the discomfort at the feet. These are insoles which bring in proper alignment of the foot which is necessary for normal function during gait. Poor alignment of the foot is associated with symptoms such as metatarsals, arch pain, knee pain, shin splints, tendon pain, back pain and other postural related symptoms. The product can be fitted into existing shoes.

The arch is imported by the applicant and based on the degree and size of arch, the flat foot insoles are made on customized basis.

6. **Sports Impact Insoles - Aerobic / Court / Cross / Trainer Insoles (Code 940) :** They provide superior relief for foot, leg, knees and lower back pain. They have built in arch support and shock impact heel module. They are ideal for protection from impacts, impact sports etc.

These are imported by the applicant.

7. **Ortho Gel Insoles (Code 929) :** They help relieve arthritis pain aggravated by foot shock and over exertion. Scientific studies have demonstrated that super shock absorbing shoe inserts can reduce the pounding forces associated with walking by over 40% and with regular wear, relived arthritis pain in knees, heeps and legs.

These are imported by the applicant.

8. **Pressure Pads (Felt/ Foam) - Metatarsal Pads (Code 955) :** They are made of felt. They protect the entire back of the foot as they absorb shock, relieve pressure and reduce friction.

These are imported by the applicant.

9. **Gel Toe Spreader – Bunion Relivers (Code No. 919) :** It is made of silicone. It keeps overlapping toes apart and reduces friction between toes. It is suitable to protect and prevent interdigital soft cons too. A few arthritis related disorders can be completely cured with treatment. Most are chronic conditions and treatment aims at controlling the pain and minimising joint damage.

10. **Posture Corrective Insoles - Adjust – A – Lift (Code 926) :** It helps in correcting leg length discrepancy. Walking comfort is made easy by adjustable heel lifts. It is made of separate 1/8" layers. The Adjust-a -Lift easily adjusts



from 3/8" to 1/4" to 1/8" simply by removing one or more of the layer. This easy to use product customizes height to help provide balance when walking or standing. It provides excellent heel compensation.

These are imported by the applicant.

04. CONTENTION AND HEARING

The case was fixed for hearing on 1/2/2006. Shri. Vijaykumar Choudhary, husband of proprietor attended. It is the contention of the applicant that the impugned products are used externally by orthopedically disabled persons for preventing or correcting bodily deformities. It is the opinion of the applicant that the impugned products are covered by the notification No. VAT-1505/CR-110/Taxation-1, Mumbai, dated 01/04/2005 issued under the Maharashtra Value Added Tax Act, 2002 for the purposes of schedule entry A-2 of the said Act. The applicant submits that the products put up for determination are orthosis or orthopaedic footwear used as aids and implements by handicapped persons and should be classified under the notification for the purposes of the schedule entry.

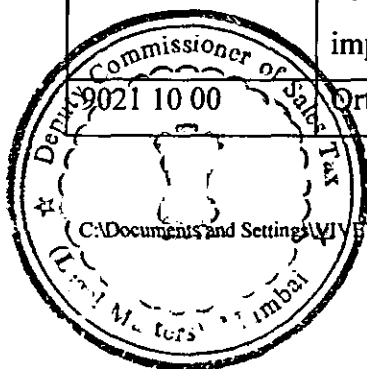
The facts as mentioned in the application were reiterated during hearing.

05. OBSERVATIONS

I have gone through all the details of the case. I proceed to assess the claims of the applicant in the light of the provisions under the Maharashtra Value Added Tax Act, 2002.

I have already discussed in detail in the para no. 03 about the nature of the impugned products and their uses. For a few products, the applicant has submitted the proof of the Central Excise Tariff Heading under which the products are cleared. The tariff heading is 9021 10 00. The description of the heading could be seen as follows :

9021	Orthopaedic appliances, including crutches, surgical belts and trusses; splints and other fracture appliances; artificial parts of the body; hearing aids and other appliances which are worn or carried, or implanted in the body, to compensate for a defect or disability
9021 10 00	Orthopaedic or fracture appliances



HSN Note No. 6 to the Chapter 90 reads thus :

For the purposes of heading 90.21, the expression "orthopaedic appliances" means appliances for: - preventing or correcting bodily deformities; or

- supporting or holding parts of the body following an illness, operation or injury

Orthopaedic appliances include footwear and special insoles designed to correct orthopaedic conditions, provided that they are either (1) made to measure or (2) mass-produced, presented singly and not in pairs and designed to fit either foot equally.

They include :

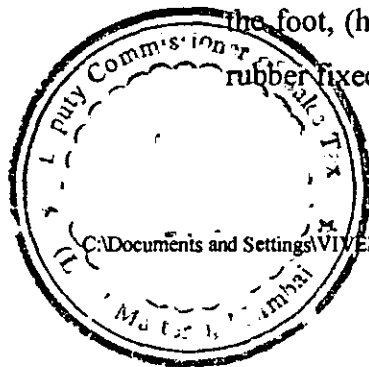
- (1) Orthopaedic foot appliances (talipes appliances, leg braces, with or without spring support for the foot, surgical boots, etc.).
- (2) Trusses (inguinal, crural, umbilical, etc., trusses) and rupture appliances.
- (3) Appliances for correcting scoliosis and curvature of the spine as well as all medical or surgical corsets and belts (including certain supporting belts) characterized by :
 - (a) Special pads, springs, etc., adjustable to fit the patient.
 - (b) The materials of which they are made (leather, metal, plastics, etc.);or
 - (c) The presence of reinforced parts, rigid pieces of fabric or bands of various widths.

The special design of these articles for a particular orthopaedic purpose distinguishes them from ordinary corsets and belts, whether or not the latter also serve to support or hold.

- (4) Orthopaedic suspenders (other than simple suspenders of knitted, netted or crocheted materials, etc.).

The heading does not include:

- (a) Simple protectors or devices designed to reduce pressure on certain parts of the foot, (heading 39.26, if made of plastics, or heading 40.14, if of cellular rubber fixed on gauze with adhesive plaster).



- (b) Mass-produced footwear the inner soles of which have been simply arched to alleviate flat-footedness (Chapter 64).

The evidence and description submitted for some of the products confirm that those products of the applicant are cleared from Customs under the tariff heading 9021 1000.

06. After discussing about orthopaedic appliances as meant for the purposes of the Central Excise Tariff Heading, let me turn to the claim of the applicant as regards the schedule entry applicable to these products.

The applicant is of the opinion that the impugned products fall under the notification issued for the purposes of the schedule entry A-2 of the Maharashtra Value Added Tax Act, 2002. Hence, let us have a look at the concerned schedule entry as well as the notification thereunder:-

SCHEDULE ENTRY

A-2	Aids and implements used by handicapped persons as may be notified by the State Government from time to time in the Official Gazette.	01/04/2005 to 31/01/2005
A-2	Aids and implements used by handicapped persons as may be notified by the State Government from time to time in the Official Gazette and components and parts thereof.	01/02/2006 to till date

NOTIFICATION DATED 01/04/2005

In exercise of the powers conferred by entry 2 of Schedule A appended to the Maharashtra Value Added Tax Act, 2002, (Mah. IX of 2005), the Government of Maharashtra hereby specifies the following aids and implements for the purposes of the said entry, namely:-

Serial No. (1)	Name of the equipment (2)
	Sound amplifying apparatus carried on the person and adapted for use as a hearing aid.

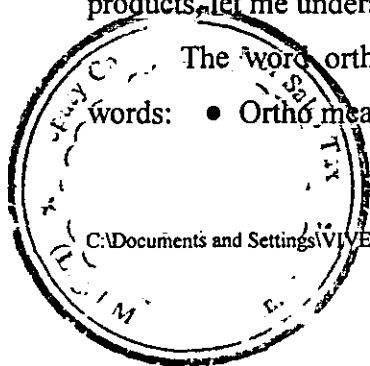
2.	Braille kits and other teaching aids for the use of blind.
3.	Walking aids and wheeled invalid chair specifically designed for crippled and disabled persons.
4.	Artificial limbs designed for crippled and disabled persons.
5.	Orthopaedic footwear
6.	Orthopaedic appliances, which are used externally by orthopaedically handicapped persons for preventing or correcting bodily deformities or for supporting or holding organs following an illness or operation, or for mobilizing injured parts of the body (for extension or protection) or, for setting fracture and further include appliances which are worn or carried or used externally to compensate for a defect, disability or a deformity, namely:- (i) Support belts, (ii) Support braces, (iii) Traction kits, (iv) Calipers for polio-patients.

The orthopaedic appliances should satisfy the following criterion so as to be covered by the above notification :-

- (1) They should be used externally by orthopaedically handicapped persons.
- (2) They should be used for
 - (a) preventing or correcting bodily deformities or
 - (b) for supporting or holding organs following an illness or operation or
 - (c) for mobilizing injured parts of the body (for extension or protection) or,
 - (d) for setting fracture
- (3) They include appliances which are worn or carried or used externally to compensate for a defect, disability or a deformity.

Before discussing about the applicability of the notification to the impugned products, let me understand the words "Orthopaedic appliances/footwear."

The word orthopaedic, sometimes spelled orthopedic, comes from two Greek words: • Ortho meaning straight • Paedia meaning children



The proper title of this medical specialty is orthopaedic surgery, although orthopaedics is a generally accepted term.

Orthopaedics is the medical specialty devoted to the **diagnosis, treatment, rehabilitation and prevention** of injuries and diseases of the body's musculos system. This complex system includes bones, joints, ligaments, tendons, muscles and nerves which allow to move, work and be active.

An orthopaedist manages special problems of the many regions of the musculoskeletal system. An orthopaedist is skilled in the

- **Diagnosis** of your injury or disorder
- **Treatment** with medication, exercise, surgery or other treatment plans
- **Rehabilitation** by recommending exercises or physical therapy to restore movement, strength and function
- **Prevention** with information and treatment plans to prevent injury or slow progression of diseases.

Common Orthopaedic Disorders

Because orthopaedic surgery is devoted to care of the body's musculoskeletal system, an orthopaedist could treat every injury to, or disorder in a :

•bone •joint •ligament •muscle •nerve •tendon

Below is a listing of some specific conditions or areas of the body that may require the care of an orthopaedist :

•Carpal Tunnel Syndrome •Arthritis •Neck Pain •Foot Pain •Shoulder Pain •Scoliosis
•Low Back Pain •Osteoporosis •Hand Pain •Soft-Tissue Injuries •Knee Pain

As per the Webster's dictionary, **Orthotics means :**

1. branch of medicine dealing with the mechanical support of weak joints and muscles – orthotic adj. – orthotist n.
2. (podiatry) insert worn in shoe to support the foot, esp. for sports).

An Orthotic Appliance is a device attached to a limb to alter the biomechanical function, either by altering the way the limb functions or by stabilising its position.

The applicant describes his product as "Podiatry Collection" for use with all levels of orthotic devices.



07. After discussing about orthopaedic appliances and having reproduced the above relevant entries, let me ascertain the claim of the applicant as regards the applicability of the notification to the impugned products. I have already discussed about each of the products in the para no. 3. I proceed to discuss each of the products individually as follows:-

1] Leather Diabetic/ Arthritic Shoe (PC 803) :

In the brochure containing the details of the products, the description of this product comes under the heading "*Cast, Post Operative & Diabetic Footwear – Just as a tripod relies on all three legs to stand, the standard care for diabetic ulceration of the foot depends on a combination of debridement, antibiotics and pressure relief. Failure to address any one of these areas can lead to serious complications or possible amputation*".

The above description of the product as well as the one reproduced earlier in the para no. 3, shows that the product is an orthopedic appliance or footwear.

In the hand book on Basic Podiatry, this product is recommended as foot care for diabetics. Again, this shoe can be said to be used as an orthopaedic appliance.

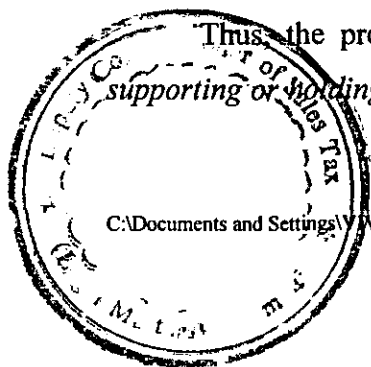
Thus, the product can be said to be one which satisfies the description "*for supporting or holding organs following an illness or operation, or for mobilizing injured parts of the body (for extension or protection)*" as meant for the schedule entry A-2 and the notification thereon.

2] Ortho-Wedge Heeling Shoe (Code 807) Wound Management Shoes :

In the brochure containing the details of the products, the description of this product comes under the heading as reproduced in [1] above.

In the hand book on Basic Podiatry, this product is recommended as foot care for diabetics. The above description of the product as well as the one reproduced earlier in the para no. 3, shows that the product is an orthopedic appliance or footwear.

Thus, the product can be said to be one which satisfies the description "*for supporting or holding organs following an illness or operation, or for mobilizing injured*"



parts of the body (for extension or protection)" as meant for the schedule entry A-2 and the notification thereon.

3] Arthritic Diaba / Diabetic Insoles (Code 942) :

In the brochure containing the details of the products, the description of this product comes under the heading "*Palliative – Diabetic –: Neuropathic feet, especially those with deformity, should always be protected with some form of accommodative pressure and shear – dissipating insert. The harder the surface and the less accommodating the insert, the greater the risk of planter ulceration. Modern materials provide new improved methods of treatment and protection against this. The Plastazote and Poron urethane are the two most innovative materials available to improve the chances of the cure and prevention of foot ulceration*".

From the description of the product, it can be seen that the same is designed to support the foot from shock, pressure and shear. In the hand book on Basic Podiatry, this product is recommended as foot care for diabetics.

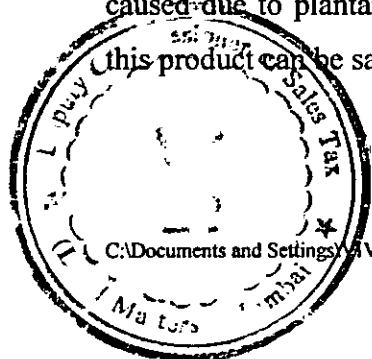
The above description of the product as well as the one reproduced earlier in the para no. 3, shows that the product is an orthopedic appliance or footwear.

Thus, the product can be said to be one which satisfies the description "*for supporting or holding organs following an illness or operation, or for mobilizing injured parts of the body (for extension or protection)*" as meant for the schedule entry A-2 and the notification thereon.

4] Silicone Heel Cushions (Code 917) :

In the brochure containing the details of the products, the description of this product comes under the heading "*Heel Pain / Spur –This can be caused by many things, the most common of which are plantar fasciitis, being overweight, spending a lot of time standing on hard surface, and weakness in the fad pads of the heel.*"

In the hand book on Basic Podiatry, this product is recommended for "Heel Pain" caused due to plantar fascitis, bursitis, achilles tendonitis, bony spur (heel spur). Again this product can be said to be one which is an orthopaedic appliance.



The above description of the product as well as the one reproduced earlier in the para no. 3, shows that the product is an orthopedic appliance or footwear.

The product satisfies the conditions of an orthopaedic aid and implement – “for supporting or holding organs following an illness or operation, or for mobilizing injured parts of the body (for extension or protection)” - as meant for the purposes of the notification entry for orthopaedic appliances and footwear.

5] Flat Foot Insoles - 3/4 Flat Foot Insoles (Code 922) :

In the brochure containing the details of the products, the description of this product comes under the heading “Flat Foot Insole – proper alignment of the foot is widely considered as being necessary for normal function during gait. Poor alignment of the foot is associated with symptoms such as metatarsals, arch pain, knee pain, shin splints, tendon pain, back pain and other postural related symptoms.”

In the hand book on Basic Podiatry, this product is recommended for arch pain also known as “arch strain”. The product provides relief from discomfort at the feet. These insoles can be fitted into existing shoes.

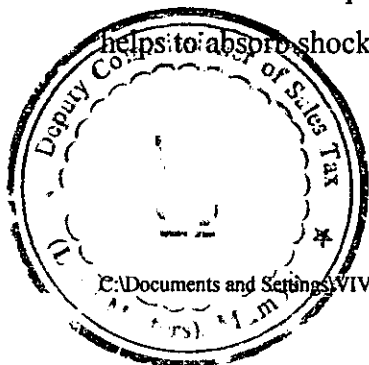
The description of the product can be said to be one fitting an orthopaedic appliance/footwear – “for supporting or holding organs following an illness or operation, or for mobilizing injured parts of the body (for extension or protection)”.

Thus, the product can be said to be covered by the entry A-2 of the Maharashtra Value Added Tax Act, 2002.

6] Sports Impact Insoles - Aerobic/Court/Cross/Trainer Insoles (Code 940) :

In the brochure containing the details of the products, the description of this product comes under the heading ‘General Use non Specific Sports –dress – Accommodative – Functional Orthoses’. The product is described as ideal for impact sports like aerobic/court/cross training, etc.

The use of product as can be seen from the description of the product is that it helps to absorb shock, relieve pressure and reduce friction.



The description of the product cannot be said to be one fitting an orthopaedic appliance/footwear. The product would be covered by the exclusion clause to the excise heading 9021 which could be reproduced once again as under :-

"Simple protectors or devices designed to reduce pressure on certain parts of the foot, (heading 39.26, if made of plastics, or heading 40.14, if of cellular rubber fixed on gauze with adhesive plaster)."

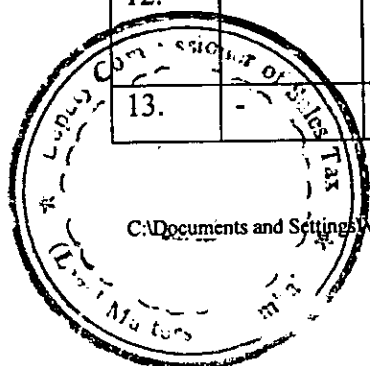
The product cannot be said to be covered by the schedule entry A-2 and the notification thereon as the product is not an orthopaedic appliance.

The other entry which could be considered is C-107(8). The schedule entry could be reproduced thus :-

C-107(8)	Medical devices and implants as may be notified from time to time by the State Government in the Official Gazette.	4%	01/05/2005 to date
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That part of the above notification which pertains to orthopedic appliances could be reproduced as follows :-

Serial No.	Heading No.	Sub heading No.	Tariff Item No.	Name of the Commodity
1	2	3	4	5
9.	-	-	9021 10 00	Orthopaedic or fracture appliance other than covered by entry 2 of the Schedule 'A' of the Act.
10.	-	-	9021 31 00	Artificial joints
11.	-	-	9021 40 10	Frequency modulated hearing aid system used for hearing by handicapped person in group situation other than hearing aid covered by entry 2 of Schedule 'A' of the Act
12.	-	-	9021 50 00	Pacemakers for stimulating heart muscles, excluding parts and accessories
13.	-	-	9021 90 10	Parts and accessories of hearing aids



As can be seen from the above notification, the tariff heading no.9021 10 00 pertains to orthopaedic or fracture appliance. I have already discussed above how the product cannot be said to be an orthopedic appliance. Hence, the question of coverage under the above heading no. 9021 10 00 in the notification issued for the purposes of the schedule entry C-107(8) does not arise.

Thus, the product cannot be said to be one which satisfies the description as meant for the schedule entries A-2 and C-107(8) and the notifications thereon and would get covered by schedule entry E-1 of the Maharashtra Value Added Tax Act, 2002.

7] Ortho Gel Insoles (Code 929) :

In the brochure containing the details of the products, the description of this product comes under the heading '*General Use non Specific Sports -dress - Accommodative - Functional Orthoses*'.

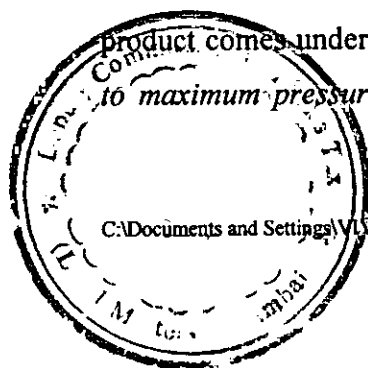
In the hand book on Basic Podiatry, this product is recommended for plantar fascitis, bursitis. The description of the product mentions that the product helps relieve arthritis pain. Regular use of the product relieves arthritis pain in knees, hips and legs.

The above description of the product as well as the one reproduced earlier in the para no. 3, shows that the product is an orthopedic appliance or footwear can be said to satisfy the description of orthopaedic appliances which include footwear and special insoles designed to correct orthopaedic conditions.

Thus, the product can be said to be one which satisfies the description "*for supporting or holding organs following an illness or operation, or for mobilizing injured parts of the body (for extension or protection)*" as meant for the schedule entry A-2 and the notification thereon.

8] Metatarsal Pads (Code 955) - Pressure Pads (Felt /Foam) :

In the brochure containing the details of the products, the description of this product comes under the heading "*Pressure Pads (Felt /Foam) - The feet are subjected to maximum pressure and contact at certain points in the feet sometimes manifest in*



corns, calluses and bunion. The foam, silicone gel and felt are few materials used to absorb shock and pressure and producing relief."

The use of product as can be seen from the description of the product is that it helps to absorb shock, relieve pressure and reduce friction. The product cannot be said to be used for cure or prevention of any of the orthopaedic disabilities.

The description of the product cannot be said to be one fitting an orthopaedic appliance/footwear. The product would be covered by the exclusion clause to the excise heading 9021 which has been reproduced in the discussion at Sr. No. 6.

The product cannot be said to be covered by the schedule entry A-2 and the notification thereon as the product is not an orthopaedic appliance.

The other entry which now could be considered is C-107(8). The schedule entry as well as that part of the notification which pertains to orthopaedic appliances has been reproduced in the discussion at Sr. No. 6.

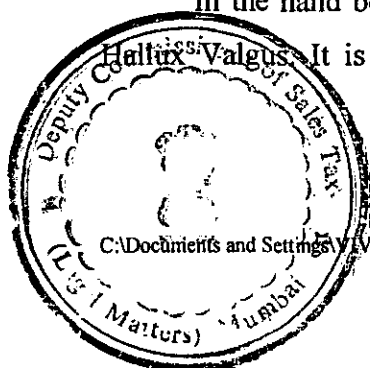
Again as has been discussed at Sr. No. 6 above, the entry C-107(8) also cannot be made applicable to the product as product cannot be said to be an orthopaedic appliance. Hence, the question of coverage under the heading no. 9021 10 00 in the notification issued for the purposes of schedule entry C-107(8) does not arise.

Thus, the product cannot be said to be one which satisfies the description as meant for the schedule entries A-2 and C-107(8) and the notifications thereon and would get covered by the schedule entry E-1 of the Maharashtra Value Added Tax Act, 2002.

9] Bunion Relievers - Gel Toe Spreader (Code No.919) :

In the brochure containing the details of the products, the description of this product comes under the heading "*Palliative – Silicone- Silicone gel medical grade is the ideal material for orthoses. It is non allergenic, non toxic, odourless and is available in desired hardness. Silicone gel conforms to whatever shape or surface contour it comes in contact with, adapting to the person rather than the person adapting to the product, thus ensuring high patient compliance.*

In the hand book on Basic Podiatry, this product is recommended for foot corn, *Hallux Valgus*. It is a comfortable way to keep toes apart. The use of this product



reduces shearing pressure between the toes. It is suitable to protect and prevent interdigital soft corns too.

The above description of the product as well as the one reproduced earlier in the para no. 3, shows that the product is an orthopedic appliance or footwear. The Central Excise have also classified the product under the Excise Tariff Heading 9021 which pertains to orthopeadic appliances.

Thus, the product can be said to be one which satisfies the description "*for supporting or holding organs following an illness or operation, or for mobilizing injured parts of the body (for extension or protection)*" as meant for the schedule entry A-2 and the notification thereon.

10] Posture Corrective Insoles i.e. Adjust – A – Lift (Code 926) :

In the brochure containing the details of the products, the description of this product comes under the heading "*Flat Foot Insoles – proper alignment of the foot is widely considered as being necessary for normal function during gait. Poor alignment of the foot is associated with symptoms such as metatarsals, arch pain, knee pain, shin splints, tendon pain, back pain and other postural related symptoms.*"

The above description of the product as well as the one reproduced earlier in the para no. 3, shows that the product is an orthopedic appliance or footwear. The Central Excise have also classified the product under the Excise Tariff Heading 9021 which pertains to orthopeadic appliances.

Thus, the product can be said to be one which satisfies the description "*for supporting or holding organs following an illness or operation, or for mobilizing injured parts of the body (for extension or protection)*" as meant for the schedule entry A-2 and the notification thereon.

08. In view of the deliberations put forth hereinabove I proceed to pass an order as follows :-



ORDER

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

No.DDQ11-2005/Adm-5/ 34 /35/36/37/38/39/40/41/42/43/B-

Mumbai,dt.

This set of ten applications involving an identical question for determination as regards the schedule entry and rate of tax applicable to the products posed for determination is decided in the table hereinbelow :-

Sr.No.	Name of the commodity	Schedule entry	Tax Rate
1.	Leather Diabetic /Arthritic Shoes (PC-803)	A-2	NIL
2.	Ortho-Wedge Heeling Shoes (Code 807)	A-2	NIL
3.	Arthritic/ Diabetic Insoles (Code 942)	A-2	NIL
4.	Ortho Silicone Heel Cushion - L (Code No. 917)	A-2	NIL
5.	¾ Flat Foot Insoles (Code No. 922)	A-2	NIL
6	Aerobic / Court / Cross Trainer Insoles (Code 940)	E-1	12.5%
7.	Ortho Gel Insoles (Code 929)	A-2	NIL
8.	Metatarsal Pads (Code 955)	E-1	12.5%
9.	Gel Toe Spreader (Code No. 919)	A-2	NIL
10.	Adjust - A - Lift Heel Cushion (Code 926)	A-2	NIL




26/4/06
(B. C. KHATUA)

Commissioner of Sales Tax,
Maharashtra State, Mumbai.

C:/OrthoRoyalInc.[F]