

SEARCH:

Read : 1. Application dated 1/12/2005 from M/s Swastik Agro holder of Registration Certificate No. 400080/V/0427 dated 8/9/2005.

2. Letter dated 16/2/2006 calling the applicant for hearing.

Heard : Shri Pankaj Lakhani, C.A. alongwith Shri Arvind Ruparel, father of the proprietor attended on 21/2/2006.

PROCEEDINGS

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

No.DDQ-11-2006/Adm-5/1/B-3

Mumbai,dt. 02/06/2006

An application is received from M/s. Swastik Agro, 240/242 Govind Udyog Bhavan, Opp. Model Town, of B. R. Road, Mulund (West), Mumbai-400 080 for determination of the rate of tax applicable to the following products :-

- 1) 1 Ltr. Automatic Pressure Hand Sprayer
- 2) 1.5 Ltr. Automatic Pressure Hand Sprayer
- 3) 1000 ml. J. KI. CON. Sprayer
- 4) 500 ml. Mini J. K. I. CON. Sprayer

The sale of the above products is evidenced by the bill No. 098 dated 30/10/2005. The applicant is of the opinion that the above commodities are covered by the schedule entry A-1 of the Maharashtra Value Added Tax Act, 2002, thereby attracting tax at nil rate.

02. DETAILS SUBMITTED BY THE APPLICANT

The applicant has submitted details as follows :-

- 1) Copy of sale bill No. 98 dt. 30.10.2005.
- 2) Photographs of the products.
- 3) Stickers describing the features of the sprayers.
- 4) Copy of the Schedule 'A' appended to the Punjab Value Added Tax Act, 2002.
- 5) Copy of the notification issued in respect of agricultural implements by the Government of Kerala.
- 6) Copy of the First Schedule of the Karnataka Value Added Tax Act.

03. BACKGROUND OF THE CASE

The applicant has developed two patents for manufacturing agricultural sprayers. The sprayers are operated manually. The details of the sprayers are as follows :-

i) Continuous sprayers having capacity of 1000 ml. and 500 ml.

These are used to spray insecticides/pesticides. The flexible nozzle system allows covering remotest possible area. The applicant

ii) **Automatic Pressure sprayers of 1500 ml. and 1000 ml.**

In these sprayers, air can be stored in the container and mist and jet spray can be done. The jet spray can go to the extent of approximately 7 mtrs. The 1500 ml. and 1000 ml Automatic Pressure sprayers are known as Kissan Automatic Pressure Sprayers.

The applicant submits that the sprayers are of supreme quality and at the same time are also cost effective. The products are manufactured according to International Standards. They are made under rigid quality control. They serve as an ideal apparatus for effective spraying of insecticides/pesticides to control pests and to check diseases in plantation and horticultural plants, including fruits and vegetables, mushrooms, flowers, spices, cashewnuts, coconuts, root and tuber crops as well as medicinal and aromatic plants.

The speciality of the products is that they have been designed to give continuous jet spray up to a distance of approximately 7 mtrs. The unique adjustable nozzle system helps in regulating air pressure to ensure sprayer efficiency. The container is made out of special grade plastic (C.P.C.) to withstand the stress of compressed air and chemicals. All other parts including the rubber seals used in the manufacturing of the product are of high grade and resistant to most of the insecticides/ pesticides.

As the products are designed to give continuous jet spray upto a distance of approximately 7 meters, the same are not suitable for domestic use. Likewise, the products also cannot be used in hair dressing saloons and beauty parlours. The products are suited for tea and coffee plantations, fruit gardens and farms.

04. CONTENTION

The applicant is of the opinion that the sprayers in question are agricultural implements which can be easily operated manually and fall under the entry No. 1 of the Schedule 'A' appended to the Maharashtra Value Added Tax Act, 2002.

05. HEARING

The case was fixed for hearing on 21/2/2006. Shri Pankaj Lakhani, C.A. and Shri Arvind Ruparel, father of the proprietor attended on 21/2/2006. The facts as mentioned in the application were reiterated during hearing. They submitted that M/s. Swastik Agro is a new company floated in September, 2005. They stressed upon the point as regards, the products being used primarily for agricultural purposes.

In support of his contention that the products are being used primarily in farms and fields for spraying insecticide/pesticide, the applicant has submitted a list of sales invoices wherein the products were sold to customers engaged in the business of agriculture. The applicant has also submitted a list of the customers who buy the products (i.e., agricultural sprayers) from his clients (purchasers). The said list contains names of dealers/distributors who are engaged primarily in the business of seeds, pesticides, fertilizers and agricultural produce. The applicant submits that, the customers are either using the products themselves or are purchasing the products for onward distribution amongst the members of the society. Thus, the applicant has tried to stress that the primary use of the product is not for household purposes.

The applicant has brought to my notice the judgment of Tribunal in the case of M/s. Multicraft Ltd and stated that the spray for determination in that case was different than this spray, as that spray can be used for domestic purposes or is used in the cutting saloon. On the contrary, the impugned spray is an automatic and continuous sprayer and can spray upto a distance of about seven meters and thus is useful only to control pests and insects for all types of plantation of farms and fruit trees. Shri Pankaj Lakhani, C.A. also submitted the copies of sales invoices and literature of similar product sold by the dealers. He has invited my attention that the said product is treated as "Agricultural sprayers" by the other dealers.

06. OBSERVATIONS

I have gone through the facts of the case. The products in question are claimed to be agricultural sprayers covered by the notification issued for the purposes of the schedule entry A-1 of the Maharashtra Value Added Tax Act, 2002. Hence, to establish their coverage under the above schedule entry and the notification thereunder, let me have a look at the schedule entry and the notification :-

SCHEDULE ENTRY

	the State Government from time to time in the Official Gazette.		31/01/2006
1.	Agricultural implements manually operated or animal driven as may be notified by the State Government from time to time in the Official Gazette and components and parts of such implements.	Nil%	01/02/2006 to till date

NOTIFICATION DATED 01/04/2005

The relevant portion of the above notification is reproduced as follows :

Serial No.	Name of the Agricultural implement
(1)	(2)
1.	Agricultural sprayer costing less than Rs. ten thousand per piece.

The schedule entry A-1 thus seeks to cover, -

- i) agricultural implements which are (a) manually operated or animal driven,
(b) notified by the State Government,
- ii) components and parts of such implements,

The notification for the purpose of the above schedule entry seeks to cover, -

- i) agricultural sprayers costing less than Rs. 10,000/- per piece.

Thus, the schedule entry and the notification together seek to cover only those manually operated or animal driven agricultural sprayers which cost less than Rs. 10,000/-.

The applicant has produced before me the samples of the four products which are put up for determination. The products have been discussed in para no.03. The applicant has submitted copies of nine sales invoices as well as the list of the customers of his clients i.e., purchasers who buy the agricultural sprayers from his clients. This was submitted so as to establish the claim that the products are agricultural implements as meant for the purposes of the schedule entry A-1. The lists could be reproduced hereinbelow :-

SALE INVOICES

Sr.No.	Invoice No.	Date of Invoice	Name of the Customer
1.	152	26/11/2005	Srinivasa Agro Corpn., Bangalore
2.	158	28/11/2005	Rashtriya Bee Biyana Stores, Ahmednagar
3.	199	14/12/2005	Planto Sprayers, Baroda
4.	00266	12/01/2006	Sam Farm Service, Thrissur
5.	00280	23/01/2006	Sun Agro Seeds, Bangalore
6.	00287	27/01/2006	All India Agro Kendra, Bangalore
7.	00293	28/01/2006	Shree Agro Seeds, Bangalore
8.	00294	28/01/2006	Sheti Vikas Sahitya Agencies, Nasik
9.	311	03/02/2006	Mahalaxmi Sheti Aujare Vibhag, Kolhapur

The applicant further submitted the list of dealers and distributors who are all the agro seeds dealers. A look at the list reveals that, the clients of the applicant's purchasers are engaged primarily in the business of seeds, pesticides, fertilizers, and agricultural produce. It is thus seen that,

- (a) the customers are either using the applicant's products themselves, or
- (b) they are purchasing the products for onward distribution amongst the members of the society.

Thus, the products are primarily purchased for use in agricultural activities as is evidenced by the above two lists. The primary use of

The products as claimed by the applicant fall under the category of agricultural sprayers as meant for the purposes of the above notification. The sprayers are used for spraying insecticides and pesticides, in fields etc.

The applicant has submitted that similar products produced by other manufacturers are covered under the Excise Tariff Heading 8424.10. We could have a look at the said heading :-

8424.10	Mechanical appliances (whether or not hand-operated) for projecting, dispersing or spraying liquids or powders; fire extinguishers, whether or not charged; spray guns and similar appliances; steam or sand blasting machines and similar jet projecting machines
8424 81 00	Agricultural or horticultural

[1] (a) 1Ltr. Automatic Pressure Hand Sprayer

(b) 1.5 Ltr. Automatic Pressure Hand Sprayer

The product is so designed that it gives continuous jet spray upto a distance of approximately seven meters on account of the unique adjustable nozzle system. The container is made of special grade plastic to withstand the stress of compressed air and chemicals. The other parts including rubber seal are also of high quality and resistant to most of insecticides and pesticides.

Since the continuous jet spray can cover a distance of approximately seven meters, the product is not suitable for domestic uses. Also, the product cannot be used in hair dressing saloons and beauty parlours. The products are suitable for Tea and Coffee plantation, fruit gardens and farms. The flexible nozzle system of the spray helps to cover the wide area. The nozzle can be adjusted in a way so as to optimal utilization of pesticide/insecticide. The literature of the product as also the list of the purchasers, suggests that the product is mainly used to control pests and diseases in field crops, tea and coffee plants, plantations of farms and fruit trees.

In view of the above description and the use of the products, the products satisfy the following conditions as meant for the purposes of the schedule entry A-1 and the notification thereunder :-

- 1) It is an implement (agricultural sprayer) used for agricultural purposes.
- 2) It is manually operated.
- 3) The price of 1 Ltr. Automatic Sprayer is Rs. 185/- and the price of 1.5 Lt. Automatic Sprayer is Rs. 200/- which satisfies the condition as regards the price as appearing in the notification.

[2] (a) 1000 ml. J. KI. CON. Sprayer

(b) 500 ml. Mini J. KI.CON Sprayer

The product is light weight. It has a flexible nozzle system so as to cover wide area. It can be used for spraying insecticides/pesticides on all types of crops. It is suitable for orchards, farms and fruit gardens. The product cannot be used for domestic purposes. The product is used to control pests and diseases in farms and fruit garden.

In view of the above description and the use of the products, the product satisfies the following conditions as meant for the purposes of the schedule entry A-1 and the notification thereunder :-

- 1) It is an implement (agricultural sprayer) used for agricultural purposes.
- 2) It is manually operated.
- 3) The price of 1000 ml J.KI. Con. Sprayer is less than Rs. 10,000/- which satisfies the condition as regards the price as appearing in the notification.

ORDER

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

No.DDQ-11-2006/Adm-5/1/B-

Mumbai,dt.

The question posed for determination as regards the rate of tax applicable to the products listed below is answered as follows :-

Sr.No.	Name of the products	Schedule Entry	Rate of Tax
1.	1 Ltr. Automatic Pressure Hand Sprayer.	A-1	NIL
2.	1.5 Ltr. Automatic Pressure Hand Sprayer	A-1	NIL
3.	1000 ml. J.KI. CON. Sprayer	A-1	NIL
4.	500 ml Mini J.KI. CON. Sprayer.	A-1	NIL

(V. N. MORE)

Commissioner of Sales Tax,

Maharashtra State, Mumbai.

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