

Read :- 1. Application dt. 23/01/2006 from M/s. The Brihan Maharashtra Sugar Syndicate Ltd.

Heard :- Shri P.C. Joshi, Advocate, Shri S.D.Shah, Advocate, Shri Lale (Technician) and Shri Mangde (Sr. Executive) attended the hearing.

## **PROCEEDINGS**

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

No.DDQ-11-06/Adm-5/100/B-01

Mumbai, dt. 17/07/2008

An application is received from M/s. The Brihan Maharashtra Sugar Syndicate Ltd. [BMSSL] requesting determination of the rate of tax applicable to the product "Vasudha Premium – Organic Manure" sold under invoice no. Manure/2005-06/2 dt. 01/10/2005.

### **02. FACTS OF THE CASE\_**

The applicant is a registered dealer under the Bombay Sales Tax Act, 1959 under the R.C No.411030/S/1649 for the place of business situated at Pune. The applicant is also having an additional place of business at Shreepur, Taluka Malshiras in Solapur District for which a separate registration number No. 413112/S/00061 was obtained. The applicant is a manufacturer of potable liquor for which he has a distillery at Shreepur, District Solapur.

The applicant informs that 'Vasudha Premium' is available in small packs of 1 Kg & 1/2 Kg for use by nurseries, terrace gardens, small kitchen gardens, household etc., where natural nutrient replenishment is not regular. The applicant further informs that from the process of manufacturing the impugned manure, it would be clear that various natural organic substances were blended scientifically in appropriate proportion, so as to improve the texture and structure of soil, thereby providing enough nutrition to the plants to be grown. The product in question also contains insecticidal and anti-fungal properties. The applicant is of the opinion that the product i.e. manure in question is covered by entry 37 of Schedule A appended to the Maharashtra VAT Act, 2002 and therefore not liable to any VAT. In order to obviate any doubt in any quarter, the present application is submitted for a statutory order under section 56 of the Maharashtra VAT Act, 2002.

The applicant has submitted a note on the production of "Vasudha Premium – Organic Manure" as follows :-

### **PREFACE**

In June 2004, The Brihan Maharashtra Sugar Syndicate Ltd., Shreepur (BMSS) has launched packaged organic manure in the open market under the brand name 'Vasudha'.

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Vasudha is produced by de-composition of press mud cake (a solid waste from sugar factory) and spent wash (a liquid effluent from distillery), both are manures as per Tribunal decisions. It is aimed at improving physical conditions of soil, to replenish and keep up its productivity, to maintain the optimal conditions for the activities of soil microbes and make good or small part of the plant nutrients. Since it is bulky organic manure, its use is limited to agricultural farms where it is used in large quantities.

After the successful launch of 'Vasudha' manure, BMSS has now launched 'Vasudha Premium', an enriched variant of Vasudha manure in small packs of ½ kg and 1 kg. Basically, its use is targeted at nurseries, terrace gardens and small kitchen gardens. In kitchen gardens and nurseries, natural nutrient replenishment is not a regular thing. Hence for successful growth of potted plants, adequate nutrient supply through manures is very essential. Hence Vasudha Premium has been developed as a formulation of various organic ingredients, which have known beneficial effects on plant propagation.

## MANUFACTURING PROCESS

'Vasudha Premium' is manufactured by using various natural organic substances blended scientifically in a precise way. These ingredients, besides improving texture and structure of soil, also provide majority of the essential plant nutrients in appropriate quantities. There are built-in components in Vasudha Premium, which has proven insecticidal and anti-fungal properties. It also contains ingredients that are soil nitrification inhibitors. These substances control soil de-nitrification process and prevent leaching or run-off of nutrients.

Names of different ingredients and their respective quantities used are as follows :-

- A] **Vasudha Organic Manure** : Bulky organic manure manufactured by aerobic decomposition of sugar factory press mud cake and distillery spent wash. Helps to improve structure and texture of soil, improves soil aeration, provides a few of the beneficial soil microorganisms to the soil. Contains elemental sulfur which incorporates insecticidal and antifungal properties. Quantity used in Vasudha Premium is 30%.
- B] **Neem Seed Cake** : It is a solid obtained after the extraction of Neem oil from dried Neem seeds. It is an excellent pesticide as well as nutritive fertilizer. Its insect-repellent, antifungal and insecticidal properties, along with relatively high content of nitrogen, makes it an excellent concentrated organic manure. Quantity used in Vasudha Premium is 20%.
- C] **Karanj Seed Cake** : It is obtained after the extraction of Karanj oil from dried Karanj seeds. Like Neem Seed Cake, it is also used as concentrated organic manure having insecticidal and fungicidal properties. Quantity used in Vasudha Premium is 40%.
- D] **Rock Phosphate** : It is a natural rock mined from phosphorous – rich deposits. The rock is washed free from clay impurities and heated to remove moisture. It is then mechanically ground to a fine powder. Rock phosphate contains 25 to 35% total phosphorous. Rock phosphate provides a long term, slow release type supply of phosphorous for the plants. Quantity used in Vasudha Premium is 10%.
- E] **Azotobactor Microbial Culture** : Azotobactor are nitrogen fixing bacteria. Culture of these microbes is developed by using Lignite coal powder as base. It is added to

Vasudha Premium in the proportion of 1 kg per MT of formulation. Once added in the soil through the manure, Azotobactor microbes starts multiplying in the soil and exert their beneficial action for the plants.

- F] Culture of Phosphate Solubilizing Bacteria (PSB) :** Since Vasudha Premium contains Rock Phosphate, PSB's have been provided with the manure. PSB's convert unavailable form of Phosphorous into available form. It is added to Vasudha Premium in the proportion of 1 kg per MT of formulation.

## PACKAGING

All the ingredients are weighed and mixed in the mixing machine. Mixing machine uses a powerful 3 HP electric motor to ensure thorough mixing of all the ingredients. Mixer is operated for 10 minutes till a homogenous mass is produced. Product is moistened a bit to maintain the microbial culture in living conditions.

The formulation is then carried to packaging platform where the material is weighed in 1 kg and ½ kg quantities and filled in printed plastic bags. Plastic bags are sealed and put in printed cardboard packs. Packs are sealed with shrink-packaging system. Every pack bears batch number, month of manufacture and price label. Individual packs are put in 10 kg cardboard cartons and dispatched for marketing arrangements.

## 03. CONTENTION

It is the contention of the applicant that the product 'Vasudha - Premium Organic Manure' does not attract sales tax being covered by entry 37 of Schedule A which covers '*Organic manure excluding oil cakes and de-oiled cakes*'. The applicant has submitted product appreciation letters given to him by M/s. Shree Eco Energies & Enviro Pvt. Ltd., M/s. Shobha Farm and other individuals who have benefited from the use of the product. There is also an Analysis Report by Water and Waste Water Research Centre.

The applicant has in his letter dt. 25/10/2007 submitted the following information :-

| Product                        | Packaging Size                        | Ingredients Used In The Production Process |             |               |
|--------------------------------|---------------------------------------|--------------------------------------------|-------------|---------------|
|                                |                                       | Name Of The Ingredient                     | In Kilogram | In Percentage |
| Vasudha Premium Organic manure | 1 kg Box packs/<br>and ½ kg Box packs | Vasudha Organic manure                     | 300 kg.     | 30 %          |
|                                |                                       | Neem Cake                                  | 200 kg.     | 20 %          |
|                                |                                       | Karanj Cake                                | 400 kg.     | 40 %          |
|                                |                                       | Rock Phosphate                             | 100 kg.     | 10 %          |
|                                |                                       | Azotobacter Microbial Culture              | 1 kg.       | 0.01 %        |
|                                |                                       | P.S.B Microbial Culture                    | 1 kg.       | 0.01 %        |

## 04. HEARING

Shri P.C. Joshi, Advocate, Shri S.D.Shah, Advocate, Shri Lale (Technician) and Shri Mangde (Sr. Executive) attended the hearing. The points as raised in the application for determination were re-iterated. They submitted a certificate from the Institute for

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Marketecology which has stated that the product 'Vasudha Premium' is approved for use in organic agriculture according to Regulation (EEC) 2092/91.

## 05. OBSERVATIONS

I have gone through all the facts of the case. The product in question is known by the trade name 'Vasudha Premium'. The applicant contends that the product is organic manure and not a fertilizer. Hence, let me reproduce herein the relevant schedule entries :-

|      |                                                                                                                                                                                                                                              |                       |
|------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|
| A-37 | <b>Organic manure</b> excluding oil cakes and de-oiled cakes.                                                                                                                                                                                | 1.4.2005 to till date |
| C-34 | <b>Fertilizers</b> including <b>biofertilisers</b> , insecticides, pesticides, fungicides, weedicides, rodenticides, herbicides, antispouring products, <b>plant growth promoters</b> or regulators, <b>but</b> not including disinfectants. | 1.4.2005 to 30.4.2005 |
|      | Fertilizers including biofertilisers, insecticides, pesticides, fungicides, weedicides, rodenticides, herbicides, antispouring products, plant growth promoters or regulators, <b>micronutrients</b> but not including disinfectants.        | 1.5.2005 to till date |

The schedule entry for 'Organic manure' excludes oil-cakes and de-oiled cakes. Oil cake is the solid residue that is left after certain oily seeds, such as cottonseed and linseed, have been pressed free of their oil. The present product is not obtained from oilseeds. And hence, exclusion to oil cakes and de-oiled cakes as appearing in the schedule entry A-37 would not be applicable to the impugned product. The applicant has informed that the product in question contains insecticidal and anti-fungal properties. However, the applicant has not made any claim as regards the product being an insecticide, pesticide, fungicide, weedicide, rodenticide, herbicide or an antispouring product. The product is also not a disinfectant.

The applicant has contended that the product is manure covered by the entry A-37 and not a fertilizer covered by the entry C-34. The words '**fertilizer**' and '**manure**' are very often used synonymously. Hence, it needs to be seen whether the product is a '**manure**' or a '**fertilizer**'. The differentiation between '**manure**' or a '**fertilizer**' appears significant not only from the view of exact classification of the product as also from the tax implications arising therefrom. Further, it also needs to be seen whether the product could be termed as a bio-fertiliser or a plant growth promoter or regulator or a micronutrient. Hence, now the question to be decided is *whether the product in question can be said to be an 'Organic manure' or a 'fertilizer' or a 'bio-fertiliser' or a 'plant growth promoter or regulator' or a 'micronutrient'?*

In the determination order [No.DDQ-11-2004/Adm-5/70/B-3 Mumbai, dt.

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31/03/2008] in the applicant's own case in respect of the product "Vasudha-Organic Manure", the terms '*manure*', '*fertilizer*' and '*bio-fertilizer*' were discussed as follows :-

#### **Manure**

- Manure is organic matter i.e. obtained from plant or vegetables.
- It may be green manure or animal manure.
- Compost is also manure but the main differentiating element is that it is decomposed remnants of organic materials.
- Most animal manure is obtained from animal excrement.
- The word 'organic' generally means that the nutrients contained in the product are derived solely from the remains or a bio product of a organism like cotton seeds, meal, plant meal manure and sewage are example of organic fertilizer.

#### **Fertilizer**

- In common parlance, the fertilizers are sometimes called 'chemical', 'artificial' or 'inorganic' manures.
- Fertilizers are inorganic materials of a concentrated nature.
- They are applied mainly to increase the supply of one or more of the essential nutrients, e.g. nitrogen, phosphorus and potash. Fertilizers contain these elements in the form of soluble or readily available chemical compounds. This distinction is, however, not very rigid.
- Inorganic fertilizers are chemicals.
- They have the advantage of smaller bulk.
- Inorganic manures are grouped into Nitrogenous fertilizer, phosphatic fertilizer, potassic fertilizer and their mixtures. They are also contain high concentration of actual nutrient but are produced synthetically from chemicals.

#### **Bio-fertilizer**

- Bio-fertilizers refer to microbial culture which is added to the soil.
- Common bio-fertilizers are Azotobactor, Rhizobium, Phosphate Solubilising Bacteria etc.
- They are bacterial cultures which do the work of nitrogen fixation in the soil.
- They do not contain NPK. They also have the advantage of smaller bulk as compared to manure.

From the above, it is seen that organic manure is characterized by the use of organic material. I have already reproduced hereinafter the manufacturing process, raw materials and features of the product. The manufacturing process mentions that Vasudha Organic Manure, one of the ingredients of 'Vasudha Premium', is a bulky organic manure manufactured by aerobic decomposition of sugar factory press mud cake and distillery spent wash. No information in respect of the same was seen in the records submitted by

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the applicant. Hence, the applicant was asked to furnish information as follows :

1. Manufacturing process of bulky organic manure manufactured using sugar factory press mud cake and distillery spent wash.
2. Microbial Analysis Report of the appropriate laboratory/organization.

In response, the applicant has informed as follows :-

**1. Manufacturing process of bulky organic manure manufactured using sugar factory press mud cake and distillery spent wash :-**

**i) Windrows Formation**

The press mud from the sugar factories is brought in the tractor or truck and is unloaded manually on the composting yard in a straight line. By using composting machine, this heap is then converted into a windrow of specific width and height.

**ii) Spent Wash Spraying**

The spent wash after primary treatment, i.e. bio-methanation, is stored in a spent wash storage tank. It is then pumped and carried to the composting yard by rigid P.V.C. pipes. This pipeline is placed below the ground level and is routed in such a manner that it can cover the entire area. The pipeline is provided with outlets at suitable locations. A manually operated on/off valve and a flexible hose are provided at each outlet to spray the spent wash manually over the entire length of a windrow. Out of the 45 days composting cycle adopted, spent wash spraying is done for 35 days so as to achieve press mud - spent wash consumption ratio of 1: 3. Remaining 10 days are meant for maturation of the compost.

**iii) Inoculation of Bacterial Culture**

To enhance the composting process, bacterial culture containing carefully selected strains of microorganisms are spread over the windrows in the specified proportions. The windrow is again treated with composting machine to achieve complete mixing of the culture in the windrow and also to provide the aeration required for aerobic composting process.

**iv) Mixing of the Windrows**

After the formation of windrows as well as after each spent wash spraying, the press mud windrows are treated by composting machine. The machine creates a uniform and homogenous mass by breaking the lumps of solids. In the second stage, the machine helps this mass to absorb the spent wash uniformly. The rotary attachment of the composting machine provides the required power for handling the mass for the above process, and also aerates the mass for faster composting actions.

The manure becomes ready after 45 days. For bagging purpose, this manure is shredded in the shredding machine, sieved through 4 mesh sieve to attain uniform texture, weighed and filled in 50 kg bags '.

**2. Microbial Analysis Report :-**

It was submitted that the report was not available.

I shall now deal with the classification of the product in terms of its ingredients.

**WHETHER MANURE OR FERTILIZER**

Organic manure implies manure made from organic materials. Manures are of plant or animal origin. More essentially, manures are available in nature in the unprocessed form. Fertilizers are obtained from synthetic chemicals. They fall in the category of NPK (Nitrogen, Phosphorus, Potassium). Fertilizers are basically inorganic material. Fertilizers and manures differ in terms of their nutrient composition. A particular product to qualify as a “fertilizer” should contain the ingredients especially the NPK content within the range specified in the Fertilizer (Control) Order.

To decide as to whether the product is a ‘*manure*’ or a ‘*fertilizer*’ and accordingly which of the above two entries or as the case may be any other entry, would be applicable to the product, one would have to look into the ingredients of the product. I have already reproduced in **para no. 02**, the names of the different ingredients which go into the making of the product. At the cost of repetition and as a quick reference, let me reproduce once again the ingredients as follows :-

1. Vasudha Organic Manure
2. Neem Seed Cake
3. Karanj Seed Cake
4. Rock Phosphate
5. Azotobactor Microbial Culture
6. Culture of Phosphate Solubilizing Bacteria (PSB)

#### **Vasudha Organic Manure**

In the determination order [cited supra] in the applicant’s case in respect of the product “Vasudha – Organic Manure” which has been held to be a fertilizer, the ingredients were spent wash and press mud. In the said order, it was clearly mentioned that in the sugar manufacturing process, chemicals are used. And therefore the product therein could not be called a ‘manure’ as manures are essentially of plant or animal origin and contain no trace of chemicals. Now, “Vasudha – Organic Manure” is one of the major ingredients of the impugned product, namely “Vasudha Premium – Organic Manure”. About 30% of “Vasudha – Organic Manure” is used in “Vasudha Premium – Organic Manure”. Thus, sizable quantity of the impugned product consists of an ingredient which is a fertilizer and not a manure.

#### **Neem Seed Cake**

The production of neem oil results in a valuable by-product – neem cake – which is widely used as a source of nutrients and for controlling soil pests. Application of neem cake as a fertiliser and pesticide is a traditional practice. The use of crop by-products like neem cake can increase yields by improving soil physical properties, providing nutrients and controlling pests.

#### **Karanj Seed Cake**

It is also known as Pongamia Glabra and is a commonly found herb in India. Karanj Seed Cake is the matter left after oil has been squeezed out.

### **Rock Phosphate**

It is a mined mineral used as a fertilizer. Rock phosphate is a secondary substance formed due to the accumulation of organic remains like bones and by replacement of limestone, calcite, etc., by phosphoric solution to form a mixture of calcium phosphate. It does not have a definite chemical composition. These minerals are mostly utilized for the manufacture of chemical fertilizers like super phosphate, di-calcium phosphate, triple super phosphate, mono-ammonium phosphate, di-ammonium phosphate and other complex fertilizers.

### **Azotobactor (Microbial Culture)**

They are free living bacteria which grow well on a nitrogen free medium.

### **Phosphate Solubilizing Bacteria (PSB - Culture)**

The soil bacteria and fungi comprise the greatest percentages of phosphate solubilizing microorganisms, known as PSM or Phosphate Solubilizing Bacteria (PSB) and Phosphate Solubilizing Fungi (PSF). These microorganisms are capable of solubilizing insoluble compounds and release phosphorus to soil solution.

From the above, it can be seen that, Neem Seed Cake and Karanj Seed Cake are organic matter whereas rock phosphate is not organic. Also, Vasudha Organic Manure was held to be a fertilizer due to the presence of chemicals in it. Azotobactor is a bio-fertilizer. Phosphate solubilizing bacteria are microorganisms.

In common parlance as well as in trade parlance, manures ordinarily mean the following :-

कंपोस्ट, लेंडी खत, कोंबडी खत, शेणखत, सोनखत, भूईमूग पेंड, सरकी पेंड, एरंडी पेंड, लिंबोळी पेंड, करंज पेंड, करडई पेंड, हाडचुरा, मासळी खत, इत्यादी.

A quick glance at the above names shows that manures are of plant or animal origin. *More essentially, the above types are available in nature in the unprocessed form.* These are the items which are usually understood when we use the word "manure". A combination of any of the above would also be termed as 'manure'. Unlike the schedule entry A-32 of the Bombay Sales Tax Act, 1959 which was for "*Manures excluding oil-cakes*", the schedule entry A-37 under the Maharashtra Value Added Tax Act, 2002 is worded differently as it specifically speaks of "*organic manures*". Ordinarily also, the term manure would imply manures which are of organic matter. Manures cannot and will not mean anything other than organic or not naturally occurring in nature. Manures are characterized by the use of organic material. That which was meant and implied in the schedule entry for manure under the Bombay Sales Tax Act, 1959 has been expressly



worded in the schedule entry A-37 under the Maharashtra Value Added Tax Act,2002. Thus, the manure to be covered under this entry has to contain organic ingredients only. Such are not the circumstances of the present case. The impugned product consists of organic as well as inorganic matter. It cannot be said to be organic due to the presence of the inorganic ingredients. Hence, the product does not qualify for coverage under the schedule entry A-37 for “organic manure” of the Maharashtra Value Added Tax Act,2002. The product is basically a fertilizer and would be suitably placed in the schedule entry C-34 of the Maharashtra Value Added Tax Act,2002.

The applicant has submitted a certificate from the Institute for Marketecology Control Order which has stated that the product “Vasudha Premium – Organic Manure” is approved for use in organic agriculture according to Regulation (EEC) 2092/91. Now, the schedule entry applicable to a product is to be determined in accordance with the schedules appended to the Maharashtra Value Added Tax Act,2002. There are separate schedule entries for manure and fertilizer. Further, there is no ambiguity in understanding the meaning and scope of these entries. Hence, the reliance of the applicant on a certification by an International Organization will not help the applicant.

Having satisfied myself that the product is a “fertiliser” and not a “manure”, I now move on to ascertain the possibility of the product being covered by the other categories namely :- 1. Bio-fertilizer 2. Plant growth promoters or regulators 3. Micronutrients

#### **WHETHER BIO-FERTILIZER**

This question requires consideration due to the presence of a bio-fertilizer like Azotobactor as one of the ingredients of the product. It is known that Azotobactor and Rhizobium are major bio-fertilizers. Bio-fertilizers are different from organic manure and for the purposes of the VAT Act, they are classified alongwith fertilizers in the schedule entry C-34 of the Maharashtra Value Added Tax Act,2002, thereby taxable @ 4%. Like organic manure, biofertilizers are also obtained from organic matter. They are not synthetically produced like fertilizer. But there are also some major differences between biofertilizer and manure with respect to the manufacturing process as also the method of application. Azotobactor and Rhizobium are grown on culture i.e a mother culture is prepared which is the pure growth of any organism on a small scale. The mother culture is prepared, sterilised, mixed thoroughly and then multiplied by two ways i.e. fermenting

and shaking. After the mother culture is prepared it is transferred to flask and then carrier is added to it for the purpose of supporting the growth of the culture. The carriers may be lignite, compost, or organic manure or peat. The present product is not biofertilizer because the biofertilizer like Azotobactor and Rhizobium are used in bio-fertilizers as a prime culture but in the present product Azotobactor is used as a catalyst for facilitating the decomposition of the organic manure. In the present product, culture of these Azotobactor microbes is developed by using Lignite coal powder as base. It is added to Vasudha Premium in the proportion of 1 kg per MT of formulation. Once added in the soil through the manure, Azotobactor microbes starts multiplying in the soil and exert their beneficial action for the plants. Thus, even though Azotobactor is a pure bio-fertilizer, here the basic product is made of Vasudha Organic Manure, Neem Seed Cake, Karanj Seed Cake and Rock Phosphate. The product cannot be said to be a bio-fertiliser as only 0.01% of Azotobactor is added to the mixture of Vasudha Organic Manure, Neem Seed Cake, Karanj Seed Cake and Rock Phosphate. The process of preparation of Azotobactor and the present product is also different. Bio-fertilizers are applied by a) Seed inoculation b) Seedling inoculation c) Self inoculation d) Soil application. Such are not the circumstances of the present case. Thus, the product does not qualify to be a bio-fertilizer covered by the schedule entry C-34.

#### **WHETHER PLANT GROWTH PROMOTERS OR REGULATORS**

The then Commissioner of Sales Tax in the case of **M/s. Resource EET (India) Private Limited (cited supra)** had also dealt with the issue of coverage of the then product under the category of Bio-fertilizers and Plant Growth Promoter or Regulator in terms of the then schedule entries C-I-4 and C-II-85 under the repealed Bombay Sales Tax Act, 1959 respectively. He had observed therein that, these two categories have been considered by the Commissioner in the Determination Order dated 31.12.1998 in the case of **M/s. BAIF Laboratories [19 MTJ 88]**. The portion relating to Plant Growth Promoter and Regulators as considered by the Commissioner in the Determination Order dated 31/12/1998 and relevant for consideration could be reproduced as follows :

*"Fertilisers are nutrients, which get used in the process of absorption by plants. They are essential in building block of cells. The 'Plant Growth Regulators' are like Enzymes or Hormones which do not take part in building cells but promote growth of plants. The impugned products are also not nutrients but mere vehicles employed to expedite the absorption of the real nutrients. In technical jargon these 'culture media' i.e. the 'bacteria' or 'fungi' convert the fertilisers called nitrate into*

*soluble nitrate."*

The observations in yet another case namely M/s. Farm Organics India Pvt. Ltd. [DDQ No.1196/Adm-5/271/B-13, Mumbai, dt.17/4/1998] could also be reproduced for a better understanding of the issue :-

*"Here the main distinguishing factor between a plain 'fertiliser' and a 'plant growth regulator' comes in view. Fertilisers provide essential nutrients required to build the plant cells and get consumed in the process of plant growth. As against this plant growth regulators do not primarily supply the nutrients, but act as a catalyst for conversion of various elements present in the atmosphere and soil into fertilizers and other micro nutrients and their fixation in the soil."*

Thus, Plant Growth Promoters are like Enzymes or Hormones which do not take part in building cells but promote growth of plants. They modify or control one or more specific physiological processes within a plant. Additionally, plant regulators are characterized by their low rates of application. Such are not the circumstances of the present case. The present product is a fertilizer and not a plant growth promoter.

#### **WHETHER MICRONUTRIENTS**

A manure supplies practically all the elements of fertility which crops require though not in adequate proportions. There are about eight nutrients essential to plant growth and health that are only needed in very small quantities. The impugned product is a fertilizer and not a micronutrient.

**06.** In view of the deliberations in the preceeding paras, I have no hesitation to hold that, the product put up for determination is a fertilizer. This would in effect mean that the product would be placed in the schedule entry C-34 of the Maharashtra Value Added Tax Act,2002, thereby attracting tax @ 4%.

I, therefore pass an order as follows :-

### **ORDER**

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

No.DDQ-11-06/Adm-5/100/B-01

Mumbai, dt. 17/07/2008

The sale of the product "Vasudha Premium – Organic Manure" evidenced by invoice no. Manure/2005-06/2 dt. 01/10/2005 is herewith determined to be covered by the schedule entry C-34 of the Maharashtra Value Added Tax Act,2002, thereby attracting tax @ 4%.

**(SANJAY BHATIA)**  
**Commissioner of Sales Tax,**  
**Maharashtra State, Mumbai.**