

Read (1)Application from M/s. Bunge India Pvt. Ltd. holder of TIN No. 27160282712V.

(2)Additional submissions through rejoinder dt. 6.11.2007 submitted during the course of hearing.

Heard (1) Shri.Vijay Agrawal, Senior Manager along with Smt. Meera Vanjari, Senior Manager (Legal) of the applicant company on 6.11.07.

(2)Shri. P.V.Surte (advocate), Vijay Agrawal, Senior Manager along with Smt. Meera Vanjari, Senior Manager (Legal) of the applicant company on 8.1.08.

PROCEEDINGS

(Under section-56(1)(e) of Maharashtra Value Added Tax Act, 2002)

No -.DDQ-11/2006/Adm-5/05/B-5

Mumbai, dt. 22.02.2008

The applicant, M/s. Bunge India Pvt. Ltd. is registered under TIN 27160282712V and has Corporate and Registered Office at B-401 & 501, Business Square, Andheri-Kurla Road, Chakala, Andheri (East), Mumbai-400093. The applicant has stated that he is engaged in the manufacture and sale of Hydrogenated Vegetable Oil (HVO for short) of different varieties and one of the varieties is stated to be 'Margarine'. The present application under section-56 of MVAT Act, 2002 is in respect of 'Lotus Margarine - 15 kg' and 'Golden Seal Margarine - 15 kg' sold through sales invoice No.00879 dt.9.2.2006 and 'Silver Seal Margarine - 15 kg.' sold through sales invoice No. 883 dt.10.2.2006.The applicant has requested for determining the rate of tax applicable to the impugned product.

02. FACTS OF THE CASE

The applicants have enclosed with the application details in brief which are as under,-

- **Prerefining** : Crude vegetable oils (vegetable and til oil) are charged with caustic acid and bleaching earth for removal of impurities and refining of crude oil to obtain refined oil.

- **Hydrogenation** : The refined oil is subjected to the process of hydrogenation with catalyst / Hydrogen to obtain Hydrogenated Vegetable Oil. (stated to be commonly referred as 'Fat')
- **Post refining** : HVO (Fat) is subjected to refining process by addition of caustic acid and bleaching earth to remove impurities.
- **Deodorisation** : Refined HVO (Fat) is then subjected to the process of deodorization where steam and acid are added in required quantity to remove the odour.
- **Cooling and Blending** : In this process vitamins are added to HVO and the mixture is cooled. In this process HVO (Fat) is obtained in grainy form. (HVO so obtained thus is a cooking medium normally used for industrial purposes and in households).
- **Packing** : HVO (Fat) is packed as per standard packing requirements.
- The HVO obtained thus is then subjected to further process of votation after addition of emulsifiers, water and vitamins (A and D) at the stage of cooling. ('Votation' is a process in which nitrogen is passed through HVO in grainy form to shock chilling of paste to make it pasty). HVO in this form is called 'Margarine'.

Thus, the applicants state that 'Margarine', vitaminised with Vitamin-'A' & 'D' is a variety of HVO in paste form and that it consists of 80% of HVO (including 5% of Til oil), 5 to 15% of water, 00.2% fat soluble emulsifier and about 0.1% common salt. Like HVO, 'Margarine' too is used as cooking medium for baking.

03. CONTENTION

Having thus explained the manufacturing process, the applicant has maintained that both HVO in grainy form and margarine in pasty form are cooking media and used for cooking only. They further inform that being a variety of HVO, they have classified the impugned margarine under schedule entry C-100 - "Vanaspati (Hydrogenated Vegetable Oil)" - and are collecting tax accordingly.

04. HEARING

The case was fixed for hearing on 6.11.07. Shri. Vijay Aggrawal (Senior manager) and Smt. Meera Vanjari (Senior manager- Legal) attended the hearing. They stated that the products submitted for determination are all 'Bakery margarine' and are used in the bakery industry. They also stated that the products are not "Table margarine'. It was further stated that the 'Bakery Margarine' was like 'Vanaspati' and the only difference was that 'water' is added to it and til oil is also added as per PFA requirements. They further stated that all States levy tax @ 4% on the product and they are also collecting tax @ 4% on the sale of the products. The product 'Bakery Margarine' is made by the process of hydrogenation and Vitamins are added to it. The molecular structure of the "Margarine' is similar to that of "Vanaspati'. It was further pleaded that the product be held as covered by schedule entry C-100 as 'Hydrogenated vegetable oil' taxable @ 4%.

The applicant also made an additional submission at the time of hearing which is summarised as under :

- The applicant has argued that there is no alteration in the chemical structure of the oil when it is converted from unrefined oil to refined oil. He has argued that this was the position adopted in *Tungabhadra Industries Ltd. v. Commercial Tax Officer, Kurnool*(AIR 1961 SC 412). According to him, here, the Supreme Court observed that if unrefined ground nut oil was left untouched in a vessel for a period of time, then the sediments normally present in the oil would settle down at the bottom of the vessel and clear refined groundnut oil would fill the rest of the vessel. According to the Supreme Court, this refined ground nut oil would not cease to be ground nut oil.
- The applicant has again referred to the observation of the Supreme Court in the aforesaid case where it is pointed out in *Tungabhadra Industries Ltd. v. Commercial Tax Officer, Kurnool (cited supra)*, that when raw oil is exposed to humid atmosphere, oxidation of the oil would result make the oil rancid. This rancid oil would still be

ground nut oil. Hence, the Supreme Court held that if after this deterioration in quality the product will still be ground nut oil, then even if the quality of the oil was improved through hydrogenation, the resulting product would still be ground nut oil. The Court also observed that both hydrogenated ground nut oil and refined oil would have the same use as cooking medium and both products would be edible oil.

- The applicant has stated that this position was reiterated in '*Champak Lal Thakkar v. State of Gujarat*' (1980 (SC-2) -GJX-0349-SC), where the Supreme Court held that Vanaspati (HVO) fulfilled all the requirements to be satisfied by a substance for it to be treated as oil. Also, the basic characteristics of the oil do not change in spite of the various processes of neutralization, bleaching, deodorization and hydrogenation that the oil is subjected to for the production of Vanaspati. Here, the Court concluded that :

'Vanaspati (HVO) must be regarded as an oil In spite of all the processes to which the oil forming its base has been subjected in order to convert it into the finished product.'

(Emphasis supplied.)

- It is informed that Margarine is a stable emulsion derived by the addition of emulsifiers and water to refined oil or hydrogenated oil or a mixture of both (fat blend). The addition of emulsifiers and stabilization is essential because edible oil or fat and water are invisible. The margarine, however, that would result on emulsification would have the same properties as its constituent raw materials, i.e. refined oil and/or hydrogenated oil. This margarine is used primarily to make products which resemble butter or hydrogenated fat and for improving the properties of various products in the baking industry For eg: creams, puffs, cakes etc. The chemical composition of margarine however remains the same as refined or hydrogenated oil.
- The applicant has referred to the DDQ in the case of M/s Berar Oil Industries (DDQ-1175/13/B-7 dt 9.7.1975) in which it was held that 'Margarine' is classifiable as HVO. The applicant has also referred to the definition of 'margarine' in the Prevention of

Food and Adulteration Act and an extract from the book 'Margarine' by Anderson and Williams.

- The Applicant further submitted that Edible Oil, Hydrogenated Vegetable Oil and Margarine have the same chemical composition as each other and are used as cooking media. Hence, margarine is similar to Hydrogenated Vegetable Oil. The applicant has also informed that he has approached the Dept. Oils, Oleochemicals & Surfactant Technology, Institute of Chemical Technology (UICT), Mumbai for their technical opinion in this regard. The Applicant requested to grant further personal hearing for submission of technical opinion and making additional submissions.

Accordingly, the applicant was given a further opportunity of hearing on 8.1.08. Shri. P.V.Surte (advocate), Shri. Vijay Agrawal, Senior Manager along with Smt. Meera Vanjari, Senior Manager (Legal) of the applicant company attended. They produced the certificate given by Shri.Bhowmick from UICT , the necessary details of which are reproduced below.

'..... Hydrogenation is the addition of hydrogen to the ethylenic double bonds by reaction with hydrogen in the presence of a metal catalyst. Primarily, hydrogenation is a means of converting liquid oils to semisolid, plastic fats suitable for shortening or margarine manufacture. However, it also accomplishes various other desirable purposes, including enhancement of stability and the improvement of colour of the oil.Vegatable oils after hydrogenation are called Hydrogenated Vegetable Oils (HVO). HVO is edible as long as it meets the specification set under appropriate provisions of prevailing regulations.

In India hydrogenated vegetable oil is also called Vanaspati. "Vanaspati" means hydrogenated vegetable oil meant for human consumption.

Margarine is a "Food in plastic form or liquid emulsion, containing not less than 80% fat". Margarine is generally produced from hydrogenated vegetable oil, aqueous phase ingredients, vitamins and other additives. The aqueous phase ingredient is water and/or milk and/or milk products. Oil, Vanaspati and margarine all are essentially the mixed triglycerides of fatty acids. However their individual physical properties differ due to the differences in fatty acid composition arising out of the modification process of hydrogenation and/or formulation process.

Oil and Vanaspati (Hydrogenated Vegetable Oil) contain moisture only in trace quantities, whereas margarine being a formulated product contains about 12-16% moisture and other additives.

Oils are produced from oil-bearing animal and vegetable materials using extraction processes such as rendering, pressing and solvent extraction. Crude fats and oils produced by rendering, pressing and solvent extraction contain variable amounts of non-glyceride impurities. Oils and fats are purified by the processes of refining, bleaching and deodorization. Vanaspati or Hydrogenated Vegetable Oil is produced by heating gaseous hydrogen liquid oil and a solid catalyst in a closed vessel at a suitable temperature. Margarine is formulated using Hydrogenated Vegetable Oil and essentially consists of five operations: emulsification, cooling, working, resting and packaging.

It is, therefore, concluded that :

A. Molecular structure of triglycerides in Edible Oil, Vanaspati and Margarine are same.

B. Margarine is Vanaspati (Hydrogenated Vegetable Oil) with about 12-16% water and other activities.

C. Edible oils, HVO and Margarine can be interchangeably used as cooking medium.

At the outset, Shri. P.V.Surte (advocate) contended that the impugned product is hydrogenated vegetable oil. He referred to the certificate obtained from UICT stating that both 'Margarine' and 'Vanaspati' are the same. He admitted that the applicant cannot sell 'Margarine' as 'Vanaspati' as the enactments governing their sale do not allow the sale and if done so, would amount to contravention of law.

05. DECISION

I have examined the contention of the applicant as also the claims made by him regarding the coverage of the impugned product under the schedule entry C-100. The said schedule entry is reproduced below :

SCHEDULE ENTRY C-100

C-100	Vanaspati (Hydrogenated vegetable oil)	4%
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The applicant has submitted for determination the product which is described by him as 'Bakery Margarine'. It is seen from the invoices that the products are sold under various brand names:

- Lotus Margarine
- Golden Seal Margarine
- Silver Seal Margarine

Let me first have a look at each of these products as the applicant has sought determination for all of them. The information about the products is available in the product literature given along with the application.

- **Lotus Margarine** : It is stated that the product is made from any or all of the following vegetable oil – palm oil, palmolein, soya bean, cotton seed, rice bran, sunflower, sesame and other permitted vegetable oils. It contains water , salt, permitted emulsifying agents and antioxidants. It contains Vitamin A 30IU and Vitamin D 2.4IU per gram when packed.
- The following is printed in Bold letters “

Specially packed for the exclusive use of Bakery/ catering Industry. NOT FOR RETAIL SALE.

- **Golden Seal Margarine and Ricca Margarine** : These, like Lotus Margarine, are made from any or all of the following vegetable oils – palm oil, palmolein, soya bean, cotton seed, rice bran, sunflower, sesame and other permitted vegetable oils. They also contains water,salt,permitted emulsifying agents and antioxidants. They contain Vitamin A 30 IU and VitaminD2.4IU per gram when packed. The following is printed in Bold letters on the product literature of both of these products:

‘Specially packed for the exclusive use of Bakery/ catering Industry. NOT FOR RETAIL SALE. ‘

A determination order has been passed by me in the case of M/s M/s. Cadila Healthcare Ltd (No-11/2006/Adm-2/40/B-1 dt 22.10.07) wherein the scope of schedule entry C-100 is delineated. It was clarified in the said order that the scope of schedule entry C-100 is restricted only to 'vanaspati'. Further, the term 'Vanaspati' is followed by the words 'Hydrogenated Vegetable Oil'. Thus, it is clear that amongst hydrogenated vegetable oils, only Vanaspati would fall under schedule entry C-100. The product would be covered by the schedule entry only if it is 'Vanaspati'. It is contended by the applicant that the product is nothing but 'Vanaspati' and therefore it would be covered by the schedule entry C-100. Having decided that the schedule entry C-100 covers only 'Vanaspati', I would examine the proposition as to whether 'Bakery Margarine' is 'Vanaspati'.

The term 'Vanaspati', though technically meaning 'vegetables and plants', has through use and tradition become synonymous with 'hydrogenated vegetable oil' in India. In the Dictionary of Food and Nutrition, obtained from the Net, the term 'vanaspati' is described as follows :

Vanaspati : 'hydrogenated vegetable oil' which is similar to 'margarine' and is usually fortified with vitamin A and vitamin D.

Also on the net, the website of the NIIR Project Consultancy Services which is the marketing affiliate of the National Institute of Industrial research describes 'Vanaspati' as follows:

Vanaspati Ghee
The synthetic fats are known in India by different names such as "Vanaspati", "Dalda Ghee", "Hydrogenated Oil" etc. Perhaps because vanaspati ghee is manufactured with vegetable oils and there is not much change in the components of vegetable oil after it has undergone the process of refining and hydrogenation, the name "Vanaspati" has been given to this refined oil. It has become one of the essential commodities of the masses, and has replaced the pure ghee because of its cheapness as compared to the pure ghee. It is very energetic due to its good calorific value. It contains the vitamins, which is essential for the human being. Vanaspati industry is one of the major food processing industry in India. It has grown to a highly developed and organized industry by now. It has been more used as cooking media and

rarely as a spread like ghee, butter etc. Since last ten years, it is being accepted more as supplement to edible oils.

The Wikipedia , which is the Free Encyclopedia available on the Internet describes 'Vanaspati 'as follows:

Hydrogenated vegetable oil:

Vanaspati is also an Indian/South Asian name for a fully or partially hydrogenated vegetable cooking oil. In India vanaspati is usually made from palm oil. [Hydrogenation](#) is performed using a catalyst known as "supported nickel catalyst", in reactors at low-medium pressure (3-10 bar). Commercial suppliers of such catalysts include the companies Johnson Matthey and BASF-Engelhard.

In [Pakistan](#), Vanaspati is spelled Banaspati.

From the information, one fact that can be easily gleaned is that 'Vanaspati' is commonly associated with the category of 'Hydrogenated Vegetable Oil' which is sold under various brand names by different companies and which was made popular in India by Hindustan Lever when it launched it under the brand name 'Dalda'. This 'Vanaspati' was introduced as a cheap substitute to the 'pure milk ghee'. It is also called 'Vanaspati' to bring out its vegetable origins as different from 'Ghee' which is obtained from cattle milk. Vanaspati is a cooking and frying medium. It is now sold by Godrej, Wipro under their brand names and, notwithstanding health concerns and the high fat content, has become a household product commonly used. The intention of all the discussion above is to give an inkling of the popularity and common use of the product 'Vanaspati' and, consequently, driving home the futility of the proposition that 'Margarine' is the same as 'Vanaspati'.

Margarine may be made by a similar process of hydrogenation but it is not, by itself, Vanaspati. In other words, so to say ,Margarine and Vanaspati belong to the same *genus* - HVO but they are of different *species*. Margarine may be a HVO but all HVO is not Margarine. As stated by the applicant, Margarine is prepared by adding water to 'Vanaspati' and unlike Vanaspati which is pasty, it is grainy in form. 'Margarine' is commonly used in the bakery

industry while Vanaspati is not used so. The chemical and molecular structure is also of little significance here. It is a principal commonly used and followed that products used by the common man are to be interpreted and classified not with reference to dictionaries and lexicons but with reference to as to how the common man perceives them. 'Margarine' is perceived differently by the common man (in common parlance no one would equate 'Margarine' with 'Vanaspati'), is known differently (as a 'bakery input' and not as a frying medium) and has a different product history altogether (as far as origins are concerned – Margarine is a Western product while Vanaspati is as Indian as they come).

The "Vegetable oil products (Regulation) Order, 1998" which governs the sale and distribution of vegetable oil products, defines the terms 'Vanaspati' and 'margarine'. The definitions are reproduced as follows :

Margarine : An emulsion of edible oils and fats with water.

Vanaspati: means hydrogenated vegetable oils meant for human consumption.

It is clear that the two are not held identical. The definition of 'Margarine' clearly brings out that the proportion of water in 'Margarine' is notably higher than in 'Vanaspati'. As per the statutory requirements, Vanaspati should not contain more than 0.5% of water while 'Margarine' contains 10-15% water. It is observed by me that in the "Vegetable oil products (Regulation) Order, 1998" issued under Essential Commodities Act by the Ministry of Food and Consumer Affairs (Department of Sugar and Edible Oils), the 'margarine' and 'vanaspati' are mentioned separately. The term 'edible oil' is defined thereunder as 'vegetable oils and fats and includes any **Margarine, Vanaspati**, bakery shortening and fat spread as specified in the Prevention of Food Adulteration Act, 1954 and rules made thereunder for human consumption'. Thus, both Margarine and Vanaspati have different compositions, answer to different descriptions, have distinct and different uses, have separate commercial identities, follow different statutory compulsions and therefore the state of affairs being what they are, I find it difficult to agree with the applicant that they are identical. Thus, though assuming without admitting that 'Margarine' is a hydrogenated vegetable oil, it scarcely helps the case

of the applicant as the schedule entry C-100 limits itself to 'Vanaspati'. It does not include all the types of hydrogenated vegetable oils available. It is this fact that precludes the application of the DDQ in the case of M/s Berar Oil Industries (Cited supra) to this case, and on which the applicant has heavily relied in support of his contention. In this particular case, the schedule entry corresponding to the schedule entry C-100 read as follows :

C-37 : ' Hydrogenated vegetable Oils including vanaspati'.

It is clear that the schedule entry encompassed all hydrogenated vegetable oils. This is not the case now. The present schedule entry covers only 'Vanaspati' and not to all the different types of 'HVO'. In short, the conclusion from the above discussion is as follows:

- The schedule entry C-100 includes only Vanaspati.
- No other HVO is included.
- Margarine is not Vanaspati as per discussion held above.
- It is presumed that Margarine is HVO but Margarine is not specifically included in C-100. Therefore, on both counts, Margarine is not covered by C-100.

It will also be interesting to observe as to the treatment meted out to "Vanaspati" and Margarine under the Central Excise Tariff Act. Under the Central Excise Tariff Act, Margarine is specifically covered by excise heading 1517 whereas 'Vanaspati' is included under excise heading '1516 under the description of ' Animal or vegetable fats and oils and their fractions, partly of wholly hydrogenated.....'. May it be noted that 'Margarine' is covered by heading 1517 and not by heading 1516.

A) JUDGEMENTS CITED BY THE APPLICANT

- The judgement in the case of Raghuvar (India) Limited vs Deputy Commissioner (Appeals) I, Commercial Taxes (19.4.97- 108 STC 171) wherein it was held that groundnut oil is same as hydrogenated oil.

- Judgment of the Apex Court in the case of M/s Champak Lal H. Thakkar (1980- (SC2)- GJX-0349-SC) wherein in a criminal law appeal it was held that oil and hydrogenated vegetable oil is the same.
- Apex court judgment in the case of M/s Tungabhadra Industries Ltd (11 STC 827) wherein it was held by the Supreme Court that Hydrogenated groundnut oil is groundnut oil.

All the judgments *per se* deal with the proposition that oil is equivalent to hydrogenated oil. This judgments may not be germane in the present context as the applicant has not made any plea for inclusion of the impugned product under the schedule entry for 'edible oil'. The judgements are also inapplicable for another reason which is that the MVAT Act has two separate entries for 'vegetable oil' and 'hydrogenated oil'. The plea of the applicant is with respect to coverage of "Margarine" under the entry for 'hydrogenated oil'. The judgements quoted do not deal with the issue of whether 'Margarine' can be called 'edible oil'. In fact, I would quote a latest judgement of the Kerala High Court which has come to my notice and which is squarely applicable to the instant case. In this judgement, which is in the case of State of Kerala vs. Aluva Sugar Agency (8VST 70) , the High Court had to decide whether Margarine -Bakery margarine is edible oil. Margarine, under the Kerala Act, is one of the items falling under entry 90 of the First Schedule of the Kerala General Sales Tax Act, 1963 which deals with ' oils, edible or inedible including refined or hydrogenated oils and margarine not elsewhere mentioned in this Schedule or in the Second Schedule' .Under the Act concessional rate is granted to edible oil. Also, edible oil was defined as ,,"ground nut oil, gingelly oil and Vanaspati" under the Schedule entry 90 of the Act. It was the plea of the appellant that the 'Margarine' is also eligible for the concessional rate being covered by the Schedule entry 90 of the Act . While rejecting this plea, the Court observed ,,"

" Bakery Margarine is a product made for a special purpose i.e for use in bakery and confectionary industry and its use for any purpose is specifically prohibited. Edible oil, on the other hand, whether in hydrogenated form or not, is used for all cooking purposes. Even though hydrogenated oil or refined oil can also be used in the bakery or

confectionary industry , the reverse is not true. In the notification, the words 'such as' after hydrogenated oils are followed by specific items , namely, ground nut oil, gingelly oil and vanaspati. This only means that those items also are covered by the notification. Margarine is not similar to those items. Therefore, bakery margarine is not edible oil covered by the notification."

While holding that 'Margarine' is not eligible for the concessional rate of tax, the Court has specifically ruled out any sort of identification between Margarine and Vanaspati.

B) CLASSIFICATION

Having negated the classification of the product as regard schedule entry C-100, the schedule entry under which the product could rightly fall is to be decided. The applicant has not made any alternate contention regarding the product. In the determination order in the case of M/s Cadila Healthcare (cited supra) it was held that "Nutralite-Table Margarine' would not be covered by the schedule entry C-107(11)(f) as it is a 'ready-to-serve' food and, in the absence of a specific entry would be covered by the residual entry. Let me test the present products against the parameters of the schedule entry C-107(11)(f) .

107(11)(f)	Food stuffs and Food provisions of all kinds including raw, semi-cooked or semi-processed foods, ready to mix and ready to cook preparations <i>excluding ready to serve foods.</i>	4%
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Explanation : The items referred to in clause (a) to (f) will not be covered by the scope of this entry *when those are served for consumption*

'Nutralite', which was a 'Table margarine' and which was marketed as 'an alternative to butter in 'bread spreads' was held as a 'ready-to-serve' food and therefore stood excluded from schedule entry C-107(11)(f). The products in the present case- Lotus Margarine, Golden Seal Margarine and Ricca Margarine are not similar to 'Nutralite'. 'Nutralite' is essentially a table margarine' and was marketed as such. What I see here is that Lotus Margarine, Golden Seal Margarine and Ricca Margarine are 'Bakery Margarine'. They are not sold in retail

markets but are sold in bulk and they cater to the Bakery/Catering Industry. They are not used as 'Bread Spreads'. Is this 'margarine' a ready-to-serve or, precisely speaking, a ready-to-eat Margarine?. I do not think so. The product literature shows that 'Lotus Margarine' is useful for making "Tasty, Softer Bread and Cakes, while use of 'Golden seal Margarine' will also give similar results. 'Ricca margarine' is specially meant for frozen desserts. This implies that the 'Margarine', is not meant to be served on the table and is not intended for direct consumption. It is an ingredient for cakes and desserts. The schedule entry C-107(11)(f) excludes ready-to-serve food as well as food served for consumption i.e food served in hotel, eating house and similar entities. However, Lotus Margarine, Golden Seal Margarine and Ricca Margarine are not 'ready-to-serve' food nor are they 'food served for consumption.' Thus, I conclude that it is not a 'ready-to-serve' food.

The products do not come under the exclusion clause being not 'ready-to-serve' food. I will examine whether it is covered by the main entry. The entry reads as 'foodstuffs and food provisions' after which the scope of the entry is explained. Does the product qualify under the expression foodstuff and food provision ?

In the landmark judgement in the case of State of Bombay vs. Virkumar Gulabchand Shah (AIR SC 1952) while deciding whether 'turmeric' is 'foodstuff' the eminent judges fairly conceded that the term is ambiguous and can be interpreted both in the narrow as well as in the wider sense- the choice depended upon the statute one is dealing with. In the narrow sense it covers only those articles which are eaten as food for the purposes of nutrition and nourishment and so would exclude condiments like yeast, salt, pepper, baking powder and turmeric. In a wider sense, it includes everything that goes in the preparation of food proper to make it palatable and digestible. The bakery Margarine goes in the preparation of food proper. It is a 'food provision' as it is used for preparation of food. It, therefore, would be covered by the schedule entry C-107(11)(f).

It may be noted that the clause (f) to sub-entry (11) in schedule entry C-107 is now deleted through notification no. VAT-1507/CR-4/Taxation-1 dt. 1.2.2008. Therefore, the

products of the applicant would with effect from 1.2.2008 be classified under the residual entry E-1 @12.5%.

06. In the backdrop of the discussion held herein above, it is hereby ordered that, **ORDER**

(Under section 56(1) (e) of the Maharashtra Value Added Tax Act, 2002)

No.DDQ-11/2006/Adm-5/05/B-5

Mumbai, dt. 22.02.2008

The sale of 'Lotus Margarine - 15 kg' and 'Golden Seal Margarine - 15 kg' sold through sales invoice No.00879 dt. 9.2.2006 and 'Silver Seal Margarine - 15 kg.' sold through sales invoice No. 883 dt.10.2.2006 is taxable @4% being covered by schedule entry C-107 (11)(f) from 1.2.2006 to 31.1.2008. They would be taxed @12.5% being covered by the residual entry E-1 from 1.2.2008.

SANJAY BHATIA
Commissioner of Sales Tax,
Maharashtra State, Mumbai.