

Read: Application dt.29.11.2009 by M/s. Narendra Udyog, holder of VAT TIN 27950020620V.
Heard: Shri M.A.Joglekar (proprietor).

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

No.DDQ-11-2009/Adm-3/63/B- 1

Mumbai, dt. 9/07/2014

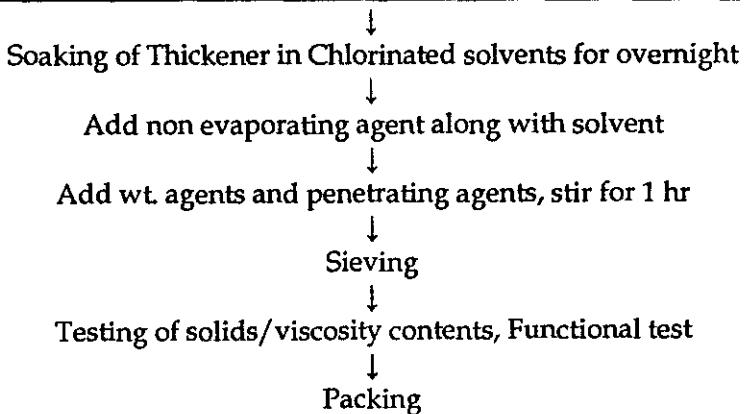
M/s. Narendra Udyog, having registered office at M/s. Narendra Udyog, C/o Sanjay Kharote & Associates, 209, Rajan Complex, Datta Mandir Signal, Poona Road, Nasik Road-422 101 has sought determination of the rate of tax on the following products :

1.	STRIPPI - Paint Remover	Bill no. 5400 dt.03.05.2013
2.	PVC Solvent Cement	Bill no. 5440 dt.19.07.2013

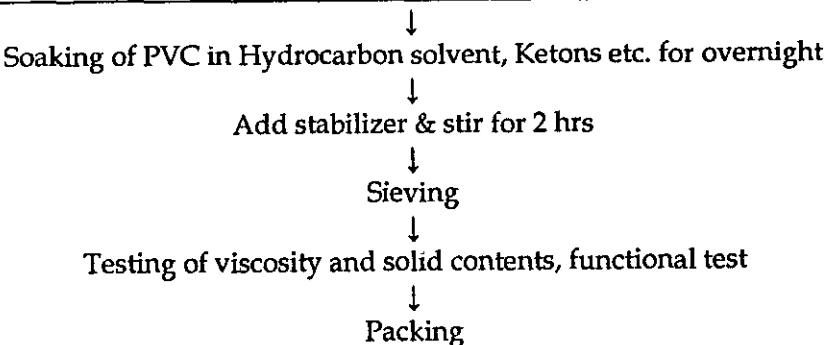
02. FACTS & CONTENTION

The applicant is a manufacturer of Paint remover and PVC Solvent Cement. The applicant is of the opinion that the products are eligible to tax @12.5% and is accordingly charging tax at the said rate. However, other parties are charging tax @4%, which affects the sales of the applicant. By letter dt.25.01.2013, the applicant contended that Paint Remover falls under Central Excise Tariff Heading (CETH) 3814 whereas PVC Solvent Cement falls under 3208 and 3214. The manufacturing process as informed by the applicant is thus -

PROCESS FOR MANUFACTURING OF PAINT REMOVER



PROCESS FOR MANUFACTURING OF PVC SOLVENT CEMENT



03. HEARING

Sh. M.A.Joglekar, proprietor attended the hearing on dt.29.04.2014. He requested 7-8 days' time to provide sale bills for the un-assessed periods for both the products put forth for determination. Claim in respect of both the products is made under the Schedule entry C- 54 of the Maharashtra Value Added Tax Act,2002 (MVAT Act,2002) for Industrial Inputs. Since notification for the purposes of the aforesaid entry is referential to Central Excise Tariff classification, he was queried about proof of the same. To this, it was submitted that their turnover is below 1.5 crore & hence Excise registration is not applicable. In respect of the merits of the case, he had the following to say:

1. (A) Paint Remover

Claim is under CETH 3814. The applicant was enquired whether the impugned product is covered by the description against this heading for the purposes of the notification is 'Reducer & blanket wash/roller wash used in the printing industry'. It was replied in the negative.

(B) PVC Solvent Cement

Claim is under CETH 3208 and 3214. However, it was brought to his notice that both the CETH's have not been notified for the purposes of the notification under the Schedule entry C- 54 for Industrial Inputs. The applicant was enquired whether the impugned product is covered by the description against this heading for the purposes of the notification is 'Reducer & blanket wash/roller wash used in the printing industry'. It was replied in the negative.

2. When asked regarding alternate claim of the schedule entries being applicable to the impugned products, it was submitted that no other entry could be claimed as applicable.
3. It was submitted that the determination order about the rate of tax be given & the issue be settled. The applicant is charging tax @ 12.5%.

04. OBSERVATIONS

I have gone through the facts of the case. The products put up for determination are Paint Remover and PVC Solvent Cement. As contended by the applicant, the product 'Paint Remover' is covered by the CETH 3814 under description 'Prepared paint or varnish removers'. However, for the CETH 3814, the notification for the purposes of the Schedule entry C- 54 for Industrial Inputs and Packing Materials has notified the description 'Reducer & blanket wash/roller wash used in the printing industry'. The aforesaid description does not cover 'paint removers' and this was not disputed by the applicant, too. Therefore, 'paint removers' would not be covered by the Schedule entry C- 54 for Industrial Inputs against the aforesaid CETH for the purposes of the notification under the Schedule entry C- 54 for Industrial Inputs and Packing Materials. As regards 'PVC Solvent Cement', it is contended that the product is covered by the description 'Resin Cement' under CETH 3214. Though the aforesaid Heading is not notified for the purposes of the notification under the Schedule entry C- 54 for Industrial Inputs and Packing Materials, I have to observe that as per the website of Dentistry Today, 'resin cement' is mentioned as one of the types of dental cements. Whereas as the impugned

product is described as being suited for joining rigid PVC high pressure pipes, tubes, conduit fittings and drip irrigation work and further as being specially formulated for UPVC and CPVC pipes & fittings. The other CETH claimed as being applicable to the product is CETH 3208, the description against which reads - 'Paints and varnishes (including enamels and lacquers) based on synthetic polymers or chemically modified natural polymers, dispersed or dissolved in a non-aqueous medium; solutions as defined in Note 4 to this Chapter'. However the aforesaid Heading, too, is not notified for the purposes of the notification under the Schedule entry C- 54 for Industrial Inputs and Packing Materials. In view of the above, it can be seen that the products Paint Remover and PVC Solvent Cement would not be covered by the Schedule entry C- 54 for Industrial Inputs and Packing Materials.

I would refer herein to the determination order dt.23.12.2000 in the case of M/s. Reliance Industrial Products wherein the product PVC Solvent Solution, having not been specified in any entry, was held as covered by the then residuary entry CII-152 of the Bombay Sales Tax Act,1959. In appeal against the determination order, the Hon. Maharashtra Sales Tax Tribunal (MSTT), in its decision dt.31.01.2003 reported in 27 MTJ 412, allowed the appellant's claim, on the particular facts of the case, that the PVC Solvent Solution (PVC Solvent Solution or Solvent cement) is a part or component of the Agricultural PVC Pipes and Fittings. The Reference Application filed by the Department was dismissed by the Hon. MSTT in its order dt.12.04.2004 (30 MTJ16) for the reason that the decision dt.31.01.2003 was based on the peculiar facts of the case. I have to stress herein that the decision of the Hon. MSTT was based on the facts of the case of the appellant therein such as the PVC Solvent Solution being invariably sold along with the pipes and fittings and without which the pipes and fittings cannot function at all and such other facts. Therefore, ratio of this judgment would be applicable only on similar facts. Despite it being so, I would just attempt to ascertain whether the MVAT Act,2002 has a similar entry under which the PVC Solvent Solution (PVC Solvent Solution or Solvent cement as termed by the Hon. MSTT in the Reference Application) was classified then. Under the MVAT Act,2002, there are following schedule entries :

Schedule Entry G-1	Agricultural machinery and implements, and components and parts thereof other than tractors, trailers, semi-trailers, oil engines, electric motors, pumps, electric pumping sets, capacitors of all types and pipes of all types
Schedule Entry C-46	Hose pipes and fittings thereof
Schedule Entry C-72	Pipes of all varieties including G.I. Pipes, C.I. pipes, ductile pipes and PVC pipes and their fittings

It can be seen that there is no entry for 'parts or components' of Pipes or Agricultural PVC Pipes and Fittings. In view of all above, I have to observe that there is no specific entry under the MVAT Act,2002 under which the impugned product could be said to be covered. The

products, therefore, find placed in the residuary entry E-1 of the MVAT Act,2002, thereby attracting tax @12.5%.

05. In view of the deliberations, it is determined thus -

ORDER

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

No.DDQ-11-2009/Adm-3/63/B- 1

Mumbai, dt. 9/07/2014

The products 'Paint Remover' and 'PVC Solvent Cement' are covered by the residuary entry E-1 of the MVAT Act,2002, thereby attracting tax @12.5%.



9/7/14
(DR.NITIN KAREER)

COMMISSIONER OF SALES TAX,
MAHARASHTRA STATE, MUMBAI