

**IN THE COURT OF THE COMMISSIONER, VAT
DEPARTMENT OF TRADE AND TAXES
GOVERNMENT OF NCT OF DELHI
VYAPAR BHAVAN, I.P.ESTATE, NEW DELHI**

No. F. 407/CDVAT/JDE/2018/509 Dated : 18-04-18

ORDER

Name of the firm : M/s Jai Mata Di Enterprises
Present for the applicant : Sh. Aljo K. Joseph, Advocate
Present for the Department : Sh.M.K. Aggarwal,
Department Representative

The applicant dealer has filed a determination application dated 02.02.2018 under Section 84 of Delhi Value Added Tax Act, 2004 (hereinafter referred to as the "said act") and the question put up for determination under the aforesaid provision of law is as under :-

" Rate of tax for articles (door closer) supplied for use in Railway Coaches, Bogies and parts thereof."

1. The application has been filed in the prescribed Format DVAT-42 and the requisite fee of Rs.1000/- paid in Form DVAT-20 dated 30-01-2018 in State Bank of India.
2. The applicant is registered dealer having TIN : 07510340807.
3. Sh. Aljo K. Joseph, Advocate appeared on behalf of the firm and reiterated the facts and grounds of the case. The brief facts of the case, as explained by the counsel on behalf of the applicant are as under :
 - i) That, the applicant dealer had supplied the door closer to the Railway during the financial year 2013-14 & 2014-15.
 - ii) That, the dealer deposited DVAT @ 12.5 % on the sale made to the Indian Railway and filed the returns accordingly.

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- iii) That, the Railway paid only 5% of the DVAT to the assessee arguing that the tax is only @ 5% for the parts used for Railway coaches and wagons.
- iv) That, entry 56 of third schedule of the DVAT Act says that the rate of tax for the Railway Coaches, engines, wagons and parts thereof would be 5% under DVAT Act.
- v) That, the assessee has wrongly paid tax @ 12.5% for the door closer, which has been purchased by Railways to be fixed in the AC Coaches for which he may be allowed to file revised returns declaring output tax @5%.
- vi) That, the dispute arises in the financial year 2013-14 and 2014-15 wherein the dealer paid tax @12.5% in place of 5%. But as per entry 56 of Schedule 3, the Railway paid tax @ 5% only.

4. With these averments, Counsel requested to clarify whether the rate of tax of articles (door closer) supplied for use in Railway Couches, Bogies, engines and parts thereof is @ 5% or 12.5%.

5. The DR appearing on behalf of the department stated that the item Door closer is an unspecified item taxable @ 12.5%, so the dealer has rightly purchase the article @ 12.5% and deposited the tax @12.5% on its sale. The rate of tax of an article does not depend on its end use. In the instant case the part door closer has multiple users, it can be used at any place is not limited to Railway bogies or wagons. Hence it should be taxed at 12.5% . There can not be two rate of taxes on the same product just based on their users.

6. I have heard both the sides and gone through the documents available on record and the relevant entry of the third schedule pointed out by the counsel. In this case the door closer can be used at multiple places and not specifically for railway coaches, engines or wagons only. A careful perusal of entry 56 of the third schedule shows that the legislative intent here is only to include those parts where the use is restricted for railway



coaches and wagons and not those which can be used at multiple places. Hence the item door closer is held taxable @ 12.5% .

7. Held accordingly.



(H. Rajesh Prasad)
Commissioner, VAT

M/s Jai Mata Di Enterprises
B-66, Bhagwati Garden Extn,
Uttam Nagar, New Delhi-110 058
No.F. 407/CDVAT/JME/2018/509

Dated : 18-04-18

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(H. Rajesh Prasad)
Commissioner, VAT