

To,

Shri Chandra Bhanu, I.A.S.
Commissioner,
Commercial Tax, Govt. of U.P,
Vinhuti Khand, Gomti Nagar,
Lucknow

Shri V.N. Garg. I.A.S.
Executive Director,
Udyog Bandhu,
12-C, Mall Avenue,
Lucknow

Shri D.S.Mishra, I.A.S.
Principal Secretary
Tax and Registration
(Commercial Tax)
Government of Uttar Pradesh
Lucknow

Reference: Request for removal of controversy about the taxability of sports goods.

Sir,

Sports goods by virtue of being a part of “ National health programme ” have been Classified in VAT Schedule-I S.No. 51 @ 0% vide Notification No. 1021 Dated 09.04.08. Sports Industry is facing the problem of uncertainty of Taxability as different officers have varying opinions. Some officers agree that parts, Components & accessory will include in the entry while other do not. Therefore there is urgent need to address this uncertainty of Taxability or otherwise. The relevant entry reads as under (photocopy at Annexure-1):-

“Wooden toys : Lac and Shellac including paseva, Mulamma, button Lac and kiri sports goods excluding apparels and sports footwear, stop clock.

”The entry being unspecific and wanting clarification and explanation, was submitted for determination as disputed Question.U/S-59 of VAT Act and petitioned through writ petition as well. It is Worth while to cite the determination by Commissioner Commercial Tax U.P. U/S-59 in the matter of all India sports goods Manufachers Federation Meerut (dated 18.09.08). (photocopy at Annexure-2)

The Commissioner in his judgment ruled, that excluding physical Exercise and Fitness equipment all the **“goods”** as mentioned in Notification No.386 Dated 29.01.01 in the erstwhile Trade Tax will include in the entry. (photocopy at Annexure-3):

The goods under VAT Act sec-2(m) have been defined as under.

“Goods “means every kind or class of movable property and includes all materials, commodities and articles involved in the execution of a work contract, and growing crop, grass, trees and things attached to, or fastened to anything permanently attached to the earth which, under the contract of sale, are agreed to be severed, but does not include actionable claims, stocks, shares or securities. (photocopy at Annexure -4);

The definition of goods is exhaustive enough to embrace every kind or class of movable property whether as parts, components or Accessories, finished or unfinished goods. Thus by virtue of wielding of word, “goods” The Commissioner has ruled the inclusion of above mentioned as uncontroverted.

The entry at S.No. 51 as determined by Commissioner Commercial Tax State that it will be entirely similar to entry as per Notification No. 306 Dated 29.01.0001. In this entry “equipments” have also been included. The Hon’ble high court in M/S Jaipur metals & electronics Ltd. VS Commercial Tax officer (1984) 57 STC 236(Raj) has already ruled that “things used in equipping or furnishing” are equipment.

The Judgment of high court centers on the basis of sec.70of VAT Act and determines that goods as are mentioned under commodity code 95060000.will fall under Sch-I S.No. 51 it clearly rules that equipment for general physical exercise....., exempted from payment of Tax.(photocopy at Annexure -5);

Thus all three Judgments permit the inclusion of parts, accessories & components as well as equipments of general physical exercise, gymnastics, and athletics in the aforesaid entry.

Even after justifying our contention on the legal pretext, there is another aspect which retards the development of growing sports goods industry of Meerut. Many states such as Uttrakhand, Himanchal, Jammu and Kashmir have given various types of subsidies, grants and exemption and lower rate of Central Sales Tax to 1%. Only lower rates of C.S.T. & provision of ‘c’ forms is sufficient to abet the imports from out side the states as due to these lower or zero rates goods become much more cheaper than our state which has no such provisions.

Secondly it is humbly submitted that Uttrakhand according to VAT Schedule has included parts, Components & accessories with all the scheduled goods. certain goods which were left over without ‘parts’ a liberal view to undo loss to Industry is taken & a general Notification No. 2010/76 Dated 07.01.2010 has been issued to add a new sec 4 (3) which reads as under.

“The rate of Tax on such parts, Spares and Accessories, which are not classified else where in the Principal Act, shall be the same as applicable under that commodity under said Act. (photocopy at Annexure-6);

“In this way they have thrashed out the anomaly. This provision is going to affect the UP Industry seriously and would have an adverse effect on our manufacture, trade and marketing.

I.I.A has represented the matter vide its letter No.2B/8375 Dated 17.03.10. But nothing has been heard so far from in reaction by the Deptt. (photocopy at Annexure-7);

In India two most prominent & competing hubs of sports goods exist in Meerut & Punjab (Jullander). To help the Competing Jullander Industry with U.P. the punjab Govt. has declared Parts, Components and accessories of sports goods @ 0% alongwith sports goods. (Photocopy at Annexure-8);

Therefore:-

(1) On the basis of high court & Commissioner Commercial Tax Judgment parts, components & accessories are included with sports goods.

(2) The competing states have exempted parts components & accessories of sports Goods also.

Therefore in the midst of competition era the state Govt. is the only resort to help us succeed in competition Hence it is requested that the Deptt. May be kind enough to see that :-

1. Issue a clarification that the entry at S.No. 51 of schedule-I of U.P. VAT Act includes all articles and equipments of sports whether they are in loose form or ready for play as well as parts, components & accessories

and

The entry at S.No.51 of schedule-I be amended as below-

“; sports goods, parts and accessories thereof excluding apparels and sports footwear;.....”

2. Issue a similar Notification on the pattern of Uttarakhand to enable all goods to include parts, components and accessories.

Thanking you,

Yours truly,

D.S. Verma
Executive Director

Enclosures :- As Above

Ref: 2B/R-36/9080

12.03.2011

To,
Shri D. S. Mishra, IAS
Principal Seceratry
Tax & Registration,
Govt. of UP,
Lucknow

Subject: - Request for removal of controversy about the taxability of sports goods.

Sir,

This is with reference to the meeting with you held on 14/01/11 in the chamber of principal secretary, Infrastructure & Industrial Development and Executive Director, Udyog Bandhu whereby the question of proper classification of sports goods came for consideration. There was an agreement that the entry is not adequate enough to embrace all the sports goods and their parts etc. The minutes of the meeting dated 18.01.2011 circulated by Udyog Bandhu are enclosed herewith for your ready reference. At serial No. 5 of the minutes of the meeting, you were kind enough to agree to the proposal in principle and assured that proper action shall soon be initiated.

IIA would like to submit that to remove any uncertainty and variation of discretionary and individual interpretations a more suitable entry may kindly be put in place as under:-

“All goods for indoor or outdoor games or sports including general, Physical exercise and multi gym equipments, parts, components & accessories thereof excluding apparels & sports footwear.”

We hope you will find our proposal in the interest of both i.e. the tax revenue of the state as well as sports goods industry in UP and will be kind enough to issue suitable amendments.

Thanking you,

Yours Truly,

Manish Goel
Vice-President
&
Chairman-EAC

Ref: 7B/R-36/9081

12.03.2011

To,
Shri V. N. Garg, IAS
Executive Director
Udyog Bandhu,
12 C Mall Avenue,
Lucknow

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We hope you will find our proposal in the interest of both i.e. the tax revenue of the state as well as sports goods industry in UP and will be kind enough to get the matter expedited.

Thanking you,

Yours Truly,

Manish Goel
Vice-President
&
Chairman-EAC

Ref: 2B/R-36/9082

12.03.2011

To,
Shri Chandra Bhanu,IAS
Commissioner,
Commercial Tax Deptt.
Govt. of UP,
Lucknow

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