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GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DEPARTMENT OF TRADE AND TAXES
BIKRI KAR BHAWAN, I.P. ESTATE, NEW DELHI-110 002**

No.F.1(1)/POLICY-III/VAT/2005/1203

Dated : 15th Dec. 2005

NOTIFICATION

A question of general public interest has arisen with respect to the interpretation of Delhi Value Added Tax, 2004 as to whether the input tax credit is to be proportionately reduced on purchase of goods if:-

- (a) such goods are used as raw material in manufacturing of taxable goods,
- (b) in the process of manufacturing, some scrap is also produced and such scrap is one of the items of the First Schedule and is exempt from levy of value added tax,
- (c) such scrap is sold.

The answer is in affirmative even though the primary objective or activity of the dealer is not manufacturing of the scrap specified in the First Schedule.

The common thread which runs through the scheme of sub-section (1), (3), (4) and (7) of section 9 is that a dealer is entitled to input tax credit in respect of only that turnover of purchases which is related to making of local sales or inter-state sales or exports. Sub-section (4) should not be read in isolation. It is to be read with sub-sections (1) and (3). Sub-section (1) defines the purchases, which earn input tax credit. Sub-section (3) lays down that the amount of tax credit to which a dealer is entitled in respect of the purchases of goods shall be the amount of input tax arising in the tax period reduced in the manner described in sub-section (4) and (6). Sub-section (4) further clarifies that where a dealer has purchased goods and the goods are to be used partly for the purposes of making sales referred to in sub-section (1) (i.e. local taxable sales, or inter-state sales or exports) and partly for other purposes, the amount of tax credit shall be reduced proportionately.

What is relevant in deciding the question raised is not the intention of the dealer or his primary objective or activity but the fact as to whether the inputs in respect of which the dealer is claiming the tax credit are resulting into making sales referred to in sub-section (1) completely. In case the inputs are resulting into making (I) sales of the nature described in sub-section (1) i.e. local taxable sales or inter-state sales or exports and also (II) sales which are exempt from tax, the item being specified in the First Schedule, in that event, the input tax credit on the turnover of purchases has to be reduced proportionately.

Now, therefore, in exercise of the powers conferred under section 85 of the Delhi Value Added Tax Act, 2004 (Delhi Act 3 of 2005), I R. K. Verma, Commissioner, Value Added Tax hereby rule that the input tax credit is to be proportionately reduced on purchase of goods in such instances.

**(R.K. Verma)
Commissioner (Value Added Tax)**

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Copy forwarded for information and necessary action to:-

1. The Pr. Secretary (Finance), GNCT of Delhi, Delhi Sachivalaya, I.P. Estate, New Delhi.
2. The Pr. Secretary (GAD), Govt. of NCT of Delhi, Delhi Sachivalaya, I.P. Estate, New Delhi with one spare copy for its publication in Delhi Gazette Part-IV (extraordinary).
3. The Secretary to Finance Minister, GNCT of Delhi, Delhi Sachivalaya, I.P. Estate, New Delhi.
4. All Additional / Joint / Deputy Commissioners, Department of Trade and Taxes, Bikrikar Bhawan, I.P Estate, New Delhi.
5. The Registrar, Sales Tax Appellate Tribunal, Bikri Kar Bhawan, I.P. Estate, New Delhi.
6. All VAT Officers, Department of Trade and Taxes, Bikrikar Bhawan I.P. Estate, New Delhi.
7. System Analyst, EDP Unit, Department of Trade and Taxes, Bikrikar Bhawan, I.P. Estate, New Delhi for posting the notification on the Department web site.
8. The President, Sales Tax Bar Association (Regd.), Bikrikar Bhawan, I.P. Estate, New Delhi.
9. Guard File.

(R.K. Verma)
Commissioner (Value Added Tax)