

**IN THE COURT OF COMMISSIONER
DEPARTMENT OF TRADE AND TAXES
GOVERNMENT OF N.C.T. OF DELHI
VYAPAR BHAVAN, NEW DELHI**

M/s Suretech International
B-5/6, Safdarjang Enclave,
New Delhi-110029

No: 228/CDVAT/2008/02

Dated: 22-04-2009

ORDER

Present for the Applicant : None

Present for the Department : Sh. T.C. Sharma, D.R.

The above named applicant has filed this application u/s 84 of the Delhi Value Added Tax Act, 2004 (hereinafter referred to as the "said Act") and the question put up before this Court for determination under the aforesaid provision of law is as under:

"Whether Battery Recovery & Peak performance Equipments are 'Renewable Energy Devices' as per item no. 58 of Third Schedule of DVAT ACT,2004".

2. The application for determination has been made in the prescribed format DVAT-42 and the requisite fee of Rs.500/- paid through Challan No. 039247 dated 12-11-2008.
3. It is stated in the Application that the applicant plans to import and sell equipment for recovery & peak performance of batteries.
4. Sh. Rajiv Chanana, proprietor and Sh. Sunil Suri C.A appeared on 03-12-2008 and again on 24-12-2008 when arguments were heard and the case was adjourned to 28-01-2009 on the request of the applicant as he wanted to file some additional information. But none appeared on 28-01-2009. However case was

adjourned and finally posted on 25-03-2009. On 25-03-2009 the case was called at 11 :00 A.M and again at 1:00 P.M. But none appeared on behalf of the applicant on that date. It seems that the applicant is not interested in pursuing this case. Hence the application is decided Ex-parte.

5. In support of his contention the applicant has furnished copies of the catalogues showing charging systems for different types of batteries along with equipments used for recovery and peak performance of batteries. The applicant has also filed a write-up on 'what is meant by renewable energy?'.

6. In his application the applicant has claimed that the equipments are meant for recovery & peak performance of batteries. As they are renewing the energy of batteries and ensuring their peak performance hence are the equipments covered under “ Renewable energy devices and spare parts” covered under item no. 58 of third schedule to DVAT ACT, 2004.

7. The D.R. stated that the known source of renewable energy are solar power, wind power, biomass and Bio diesel energy and the entry no. 58 of schedule IIIrd of the said ACT covers only such devices which are used for harvesting energy from these renewable sources. Whereas the product for the determination is a Re-charger of batteries (a type of inverter) with some modification to enhance the performance of different types of batteries and is not in itself a equipment used for harvesting of energy from renewal sources of energy.

8. Having heard the arguments put forth from both sides and after perusing the documents on record the application filed u/s 84 of the Act and the relevant extract of the Act, this Court is of the opinion that the items which are the subject matter of the present application do not find any place in any of the schedules of Act, and thus are general unspecified items falling u/s 4(1)(e) of DVAT Act 2004 and attract VAT @ 12.5%. Held accordingly.

(Archna Arora)
Commissioner (T&T)

Copy for information and necessary action to:

1. The Applicant.
2. The Addl. Commissioner (L&J), Department of Trade & Taxes, Vyapar Bhavan, I.P.Estate, New Delhi.
3. The President, Sales Tax Bar Association, Department of Trade & Taxes, Vyapar Bhavan, I.P. Estate, New Delhi.
4. The Value Added Tax Officer, Policy Branch. Department of Trade & Taxes, Vyapar Bhavan, I.P. Estate, New Delhi.
5. Guard File.

(Archna Arora)
Commissioner (T&T)