

**COURT OF THE ADDITIONAL COMMISSIONER (VAT & IT)  
COMMERCIAL TAXES DEPARTMENT, RAJASTHAN, JAIPUR**

**Present: Shri Har Sahay Meena, IAS**

P.5(C)53/TaxRate/ACCT/L/07

Date :

M/s. CTR Tax Media,  
34, Heavy Industrial Area,  
Jodhpur.  
TIN : 08682656281

Date of hearing : 16/02/2010

Date of decision :

Present on behalf of the dealer :

Shri Shailendra Bardia, A/R.

**Order Under Section 36 of Rajasthan VAT Act, 2003**

1. The applicant filed an application U/S. 36 of RVAT Act, 2003 on 17/01/2007 in which the following disputed question of law was raised for determination :-  
**"Whether books on electronic media i.e. on CD (Compact Disc) are exempt from tax and if not exempt from tax, then at what rate the same is chargeable to tax both incase of within state sales as well as in the case of interstate sales."**
2. Alternatively, it may be treated as an IT product chargeable to tax at such rate as may be notified for IT products, from time to time.
3. In this regard the dealer was given an opportunity of hearing on 16/02/2010, Shri Shailendra Bardia, A/R. appeared on behalf of the applicant and requested to determine the disputed question of law.
4. Shri Bardia argued that as per schedule I, entry no. 05 "Books, Periodicals and Journals including Maps, Charts and Globes" are exempted from VAT.
5. He also mentioned that 'book' means something regarded as a source of knowledge or understanding. It can be paper i.e. in print form and also in electronic form i.e. on CD. Therefore, CD containing knowledge on any field must also be exempt both from VAT and CST. There being no clear mention about the same, the above question needs to be determine.
6. He mentioned that according to Oxford Dictionary, e-book is an electronic version of a printed book which can be read on a personal computer or hand-held device designed specifically for this purpose. According to PC Magazine Encyclopedia, the e-book is electronic counterpart of a printed book which can be viewed on a desktop cc PDA e-book reader.

7. The applicant also mentioned that he is manufacturing books on Electronic Media i.e. DVD. There are two books on Electronic Media namely CTR Library of Tax Cases and CTR Encyclopedia on Indian Tax Laws. In the case of first book, it is compilation of the judgments of the Hon'ble Supreme Court, various High Courts and various benches of the Income Tax Appellate Tribunal. In the second case, it is compilation of complete commentary on Direct Tax Laws, Case Laws, Circulars and Notifications, Articles etc. The products are books in electronic form i.e. in the form of CD/DVD which are to be read on a computer. They serve the same purpose as a book. The positive features are less bulky, less in weight, easy to move and easy access to the various contents etc.
8. He also mentioned that considering the definition of book and e-book and the end use, it is manifest that there is no difference between the printed books and the books on Electronic Media.
9. With reference to the above and in continuation of the submissions already made, he also submit as under:-
- a. Without prejudice to the dealer's claim for treating his product as book, it is submitted that alternatively the same is in any case 'a software' liable to tax @4% in terms of entry No. 65 in Schedule IV.
  - b. The product contains all the characteristics of software. Beside different types of search facilities, there are provisions for computation of income, filling of tax forms, preparation of challans etc.
  - c. There is no tax on books in any state.
  - d. As regards software, the applicable tax rate in the various states like Rajasthan, Andhra Pradesh, Maharashtra, Gujarat etc. is 4% only.
  - e. Similar product being produced and sold by other party from Chennai. It is a famous product known as ITR(Income Tax Reports) and is being subjected to VAT @4%.
  - f. Even in Rajasthan, Tax Soft marketing Private Limited is charging CST/VAT @4%.
  - g. It may be explained that the dealer's product is also not one time. It is updated and revised at regular intervals.
  - h. In Andhra Pradesh the software is chargeable to tax @4% and CD is chargeable to tax @4%. Similar is the position in Gujarat.
  - i. In Maharashtra, the software and CD are liable to tax @4%.
10. The above issue was examined by the Assessing Authority and the Committee of the Department.
11. I have gone through the record, arguments advanced by the learned Authorized Representative of the dealer and carefully gone through the record, facts submitted by the Assessing Authority in his comments as well as opinion given by the State Level Departmental Committee.

12. S. No. 5 of Schedule I of RVAT Act is as follows:-

S. No.	Description of Goods	Conditions, if any
5	Books and periodicals and journals including maps charts and globe	

S. No. 10, 11 of Part A of Schedule IV of RVAT Act are as follows:-

S. No.	Description of Goods	Rate of Tax %
10	Prepared unrecorded media for sound recording or similar recording of other phenomena including Compact Disc (CD) and Digital Versatile Disc (DVD)	4
11	IT Software on any media	4

13. Some definitions of Book is as under:

- a. Book includes every volume, part or division of a volume and pamphlet in any language, and every sheet of music, map, chart or plan separately printed or lithographed but does not include a newspaper in conformity with the provisions of Section 5 of the Press and Registration of Books Act, 1867. [Delivery of Books and Newspapers (Public Libraries) Act (27 of 1954), S.2(a)]
- b. A treatise, written or printed on any material and put together in any convenient form. Any printed literary compilation; a collection of sheets bound together containing manuscript entries or intended to contain such entries; the name of several important papers prepared in the progress of a cause, although entirely written and not at all in book form. (Burrill)  
(all above references are, as mentioned in Advanced Law Lexicon by P. Ramanatha Aiyar book-1 page 572, 573).

14. The CDs comprising any academic or literary work, art, music or movie etc. are not exempted under the law hence it is taxable under the RVAT Act 2003. So far as the rate of tax on inter-state sale of such CDs is concerned the CST should be @2% if sold to registered dealers with support of the form 'C' and general rate if sold to unregistered dealers.

15. As per the definition of goods, the product sold by the applicant (Books on electronic media i.e. on CD) is goods. As per definition of 'book' the product sold by the applicant is neither printed nor lithographed hence not covered in the definition of Book. If the conventional meaning of book is to be considered then also a book means printed material on paper. Here the paper medium is an essential part of a book. Even the entry No. 5 of Schedule I is related to all items printed on paper medium. Hence the product is not covered in 'Books' and not exempted under entry at S. No. 5 of Schedule I of RVAT Act.

16. The item sold by the applicant is also not unrecorded media for sound recording or similar recording of any phenomenon. It is a recorded C.D. on which text or some academic material is recorded. Even in the case of TCS V/s State of AP(2004) 13)STC 620, the Hon'ble Supreme Court has held that "*Even intellectual property, once it is put on to a media, whether it be in the form of books or canvas (in the case of the painting) or computer discs or cassettes, and marketed would be "goods" .....What the buyer purchases and pays for is not the disc or the CD. As in the case of paintings or books or music or films the buyer is purchasing the intellectual property and not the media, i.e. the paper or cassette or disc of CD.*"(In para 24)
17. "Goods" is defined in section 2(15) RVAT Act 2003 as under:  
2(15) 'goods' means all kinds of movable property, whether tangible or intangible. other than newspapers, money, actionable claims, stocks, shares and securities, and includes materials, articles and commodities used in any form in the execution of works contract, livestock and all other things attached to or forming part of the land which is agreed to be severed before sale or under the contract of sale.
18. Hence the product sold by the applicant is the "intellectual property" and not the media and as such not covered in items notified at S. No. 10 of Part A of Schedule IV of Rajasthan Value Added Tax Act 2003.
19. In the instant case the applicant is providing material recorded on C.D. and selling it in the name of book, as per applicant, but to read a book except eyes no medium is required but in the instant case a computer with C.D. drive is required as a medium to read the information present on the C.D.
20. Under the RVAT Act the 'IT Software on any media' is taxable @4% as enumerated in Schedule IV part-A at entry No. 11, but the commodity under instant consideration, is remarkably different from the software programme or 'IT Software' as such. Where, an IT Software is essentially a series of instructions intended to perform a designated task through the computer by feeding certain data therein by the user, conversely, the 'Books or Journals on CDs' are intended to be read by the viewer, for its academic material contained therein ad verbatim. There is no maneuvering desired to feed any data therein to perform any designated task as required for operating and IT software. But as per user's manual /guide as like as software the C.D. of this kind use setup.exe, and then a security key is needed. The all commands done by key board or mouse.

21. The basic thing is that the 'Books on C.D./D.V.D.' are not useable for entertainment, the only use of 'Books on electronic media' is give knowledge or information and it is so similar to book. There is no any other use of 'books on CDs'. It gives information by a systematic way as like books. In this case a computer monitor, C.D. Drive is must to read the information present on CDs.
22. Looking into all facts of the question it seems entry No. 11 of Schedule IV Part A is applicable in the matter of 'Books on electronic media i.e. C.D., D.V.D.'
23. Hence, the disputed question mentioned above is determined as under:-

**“Under the facts & circumstances of the question the Entry 'Books on electronic media i.e. C.D.' is covered under the category of IT product within the Entry No. 11 of Schedule IV of the Rajasthan Value Added Tax Act 2003, hence taxable at the rate mentioned in Schedule IV of the Rajasthan Value Added Tax Act 2003.”**

**Additional Commissioner (VAT & IT)**  
Commercial Taxes Department,  
Rajasthan, Jaipur

P.5(C)53/TaxRate/ACCT/L/07/879

Date : 11.3.2018

Copy forwarded to the following for necessary action:

1. Commissioner, Commercial Taxes Department, Rajasthan, Jaipur.
2. Additional Commissioner(Legal/Tax), Commercial Taxes Department, Jaipur
3. Deputy Commissioner (Adm), ,Rajasthan.
4. Deputy Commissioner (I.T.), Jaipur for website.
5. A.C./C.T.O Special Circle III, Jodhpur.
6. M/S. C.T.R. Tax Media, 34, Heavy Industrial Area, Jodhpur.
7. Guard File.

**Additional Commissioner (VAT & IT)**  
Commercial Taxes Department,  
Rajasthan, Jaipur