

ST 2357 - SALES TAX : AIDS TO MANUFACTURE - EQUIPMENT USED TO PUMP SLURRY AS PART OF A CONTINUOUS PROCESS OF MANUFACTURE

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TAXATION RULING NO. ST 2357

SALES TAX : AIDS TO MANUFACTURE - EQUIPMENT USED TO
PUMP SLURRY AS PART OF A CONTINUOUS PROCESS OF
MANUFACTURE

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REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1218701	AIDS TO MANUFACTURE - PROCESSING OR TREATMENT MANUFACTURE PUMPS SLURRY PUMPS	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; ITEM 113, FIRST SCHEDULE SALES TAX REGULATIONS, REGULATION 4.

PREAMBLE

The question of whether pumps installed by a company to convey slurry in a pipeline from a quarry site to a clinker making plant are aids to manufacture was recently considered by the Supreme Court of Queensland in *The Queensland Cement & Lime Company Limited v Deputy Commissioner of Taxation* 86 ATC 4771; 18 ATR 135.

2. The pumps were purchased and applied to the company's own use prior to 21 July 1981, i.e. before the amendments made to the aids to manufacture definition on 19 August 1981. However, the amendments which came into force on 19 August 1981 did not affect the position because the sub-paragraphs of the definition which were considered by the Court, namely paragraphs (a)(i), (ii) and (iii), were not altered by the amendments.

3. Item 113C in the First Schedule to the Sales Tax (Exemptions and Classifications) Act exempts goods applied by a registered person to his own use as aids to manufacture. That expression is defined in sub-regulation 4(1) of the Sales Tax Regulations and paragraphs (a)(i), (ii) and (iii) of the definition read as follows :-

"aids to manufacture means goods for use by a registered person being -

- (a) machinery, implements and apparatus for use exclusively, or primarily and principally -
 - (i) in the actual processing or treatment of goods to be used in, wrought into or attached to goods to be manufactured;
 - (ii) in any processing or treatment by which the goods to which that processing or treatment is applied are used in, wrought into or attached to goods to be manufactured;
 - (iii) in any processing or treatment for the

purpose of bringing goods into, or maintaining goods in, the form or condition in which they are marketed or used by the manufacturer thereof;"

FACTS

4. The Queensland Cement and Lime Company Limited carries on business at Gladstone manufacturing clinker and cement. One of the principal raw materials used in that process is limestone. As part of the manufacturing process, the limestone is ground to a powder and mixed with water and other materials to form a slurry. The slurry is dried and subjected to heat, being thereby converted to clinker. The plaintiff's Gladstone operation is carried out at two separate locations, East End and Fisherman's Landing. The grinding and mixing occur at East End. The slurry is then conveyed by pipeline to Fisherman's Landing where it is dried and converted into clinker. The slurry is forced through the pipeline by means of two pumps.

5. It was argued for the Deputy Commissioner that while some processing or treatment of the slurry took place in the pipeline, the pumps were not for use primarily and principally for this purpose but for the transport of the slurry and that they, therefore, did not qualify for exemption as "aids to manufacture".

6. It was submitted on behalf of The Queensland Cement and Lime Company Limited that the use of the pumps is an integral part of one complete manufacturing process and that more than mere transportation is involved : the pumps continue the mixing process necessary for manufacture of the clinker by ensuring the homogeneity of the mixture delivered at Fisherman's Landing. It was, therefore, submitted that the pumps are "aids to manufacture" because their use falls within sub-regulations 4(1)(a)(i), (ii) and (iii).

7. His Honour, de Jersey J., on the basis of facts agreed to by the parties, concluded that the conveyance of slurry by the pumps and pipeline between two manufacturing sites was a part of one continuous process of manufacture of clinker. His Honour held that the pumps were for use in moving the slurry through the pipes, managing it in a homogeneous and therefore usable consistency and that this involved their use primarily and principally in the processing or treatment of the slurry. That is, that sub-regulations 4(1)(a)(i), (ii) and (iii) all apply in this case.

RULING

8. Whether particular goods are being used as aids to manufacture for sales tax purposes must be determined, as indicated by His Honour at page 4774 of 86 ATC; page 138 of 18 ATR, by reference to the facts of the particular case. It is always a question of degree whether goods are used primarily and principally in any processing or treatment of goods in the course of their manufacture or primarily and principally for other purposes outside the exemption available under the aids to manufacture provisions.

9. On the evidence presented in this case de Jersey J. determined that the process of manufacturing clinker commences (at the latest) with the grinding of the limestone and then continues through the phases of mixing, transportation to Fisherman's Landing, and drying at that location. His Honour

held that one continuous process of manufacture was involved and that while the pumps were used in part for transportation of the slurry their primary and principal use was in processing or treating the slurry by maintaining it in a homogeneous and therefore usable consistency.

10. Pumps used in other comparable circumstances by manufacturers will also be exempt from sales tax as aids to manufacture.

COMMISSIONER OF TAXATION
13 AUGUST 1987