

**DEPARTMENT OF COMMERCIAL TAXES, KERALA**  
**PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION**  
**U/s.94 OF THE KERALA VALUE ADDED TAX ACT, 2003.**

*Members present are:*

1. T.K. Ziavudeen.  
*Joint Commissioner (Law),  
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

2. Dr. A. Bijikumari Amma.  
*Joint Commissioner (A & I),  
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

3. N. Thulaseedharan Pillai.  
*Joint Commissioner (General),  
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

Sub :- KVAT Act, 2003 – Clarification U/s 94 – Rate of tax of Blended Edible Vegetable Oil – Orders issued.

Read:- Application dtd. 12-04-13 from M/s. KOG-KTV Food Products (India) Pvt. Ltd.

**ORDER No.C3/11060/13/CT DATED 29/03/2017**

1. M/s. KOG-KTV Food Products (India) Pvt. Ltd. has preferred an application U/s. 94 of the Kerala Value Added Tax Act, 2003, seeking clarification as to the rate of tax of Blended Edible Vegetable Oil.

2. The applicant has submitted that their product is Blended Edible Vegetable Oil which is an admixture of 80% refined palm kernel oil and 20% edible coconut oil. In change of circumstances, other edible vegetable oil can be blended in spite of palm kernel oil and coconut oil. Accordingly, ratio of admixture can be changed.

3. The applicant would contend that as per the Food Safety & Standard Regulation, 2011, *Blended edible vegetable oil means an admixture of any two edible vegetable oils where the proportion by weight of any edible vegetable oil used in the admixture is not less than 20 percent.* The individual oils in the blend shall conform to the respective standards prescribed in these regulations. The applicant has obtained an Agmark Certificate of authorisation issued under the provisions of the Agricultural Produce (Grading & Marking) Act, 1937 for making blended edible vegetable oil.

4. The applicant placed his reliance on the judgment of the Hon'ble Supreme Court of India in Commissioner of Central Excise, Bangalore vs. Osnar Chemical (P) Ltd. wherein it is held that it could not be said that mixing of some material would amount to manufacture unless it results in a change when the commodity concerned cannot be recognised as an original commodity but rather new and distinct article emerges having different commercial use and identity.

5. The applicant has then argued that even after mixing of 80% refined palm oil and 20% coconut oil, the resultant product remains edible oil and entry number 38(17) of the III schedule is 'other edible oils' with HSN code 1515.90.91. As per the rule of ejusdem generis 'other edible oils' will also include 'Blended Edible Vegetable Oil'. In the rules of interpretation of schedules given as appendix after the schedules under guideline number V it has been stated that where the term 'other' is used in sub-entries or sub-sub entries, it should be construed by using the doctrine of ejusdem generis. The rule of ejusdem generis states when specific words are followed by general words, the general words should be interpreted as having the meaning identical to the meaning attributed to the specific words.

6. The applicant has further argued that all the items ie., items 38(1) to 38(16) given in the III schedule which precede item number 38(17) namely other edible oils are specific entries and entry number 38(17) is other edible oils which is a general entry. All items from 38(1) to 38(16) are edible vegetable oils fit for human consumption and therefore blended edible vegetable oil which is a AGMARK certified quality vegetable oil fit for human consumption will come under other edible oils under entry number 38(17) of the III schedule of the KVAT Act taxable at 5% as per the rule of 'ejusdem generis'. The applicant has also argued that in the rules of interpretation of schedules given as appendix after the schedules under item 25 in guideline number VI, it has been stated that entry 38 of the III schedule includes only the edible grade of vegetable oils.

7. The applicant has requested to clarify the rate of tax applicable for the above product.

8. The authorised representative of the applicant was heard in the matter and the contentions raised were examined.

9. Blending different oils with various properties give us a new oil with improved functional characteristics and application in the finished product. For instance, some oils tend to crystalize and change their clarity when cooled. Studies

show that mixing these oils with higher and more unsaturated oils give a more stable and clear mixture which remains stable during storage. Blending oils lead to changes in triacyl glycerol profile, and, therefore, to changes in the physical properties of oils such as cloud points, solid fat contents, sensory quality, smoke point, density and viscosity. Blending has an effect on the chemical properties of the oils used in the mixture. Mixing different vegetable oils can change fatty acid composition and give higher levels of natural anti-oxidants and bio-active lipids in the blends, and, therefore, can improve the nutritional value and stability of oils.

10. However, blending does not result in manufacture of a new and different article having a different identity, characteristic and use. The end product, even after blending, still remains an edible vegetable oil. It is well settled that mere improvement in quality does not amount to manufacture. The word 'manufacture' used as verb is generally understood to mean as 'bringing into existence a new substance' and does not mean merely 'to produce some change in a substance, however minor in consequence the change may be.

11. Heading 1518 under Chapter 15 of the Customs Tariff Act reads as follows:

*Animal or vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516.*

Entry 38(19)(c) of the Third schedule to the KVAT Act, bearing HSN 1518.00.31 reads: '*Other vegetable oils edible grade*'. The corresponding entry under the Customs Tariff Act reads: '*Edible grade*'.

12. In the light of the above, it is clarified that 'Blended Edible Vegetable Oil' would come under entry 38(19)(c) of the third schedule to the KVAT Act, and, hence, would be taxable at 5%.

The issues raised above are clarified accordingly.

**T.K. Zivudeen**  
**Joint Commissioner (Law)**  
O/o CCT

**Dr. A. Bijikumari Amma**  
**Joint Commissioner (A&I)**  
O/o CCT

**N. Thulaseedharan Pillai**  
**Joint Commissioner (General)**  
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To

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