

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

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

3. S. Anil Kumar.
Deputy Commissioner (Internal Audit),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.

Sub :- KVAT Act, 2003 - Clarification U/s 94 - Rate of tax applicable for JCB excavator - Orders issued.

Read :- Application dtd. 22/07/2015 from M/s. Christ Knowledge City, Ekm.

ORDER No.C3/26486/15/CT DATED 06/03/2017

1. M/s. Christ Knowledge City has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003, seeking clarification on the rate of tax of used JCB excavator.

2. The applicant submits that it is a charitable trust and is running an educational institution. They have purchased 'JCB 3DX EXCAVATOR LOADER' from M/s. India Techs Limited, Kochi paying tax at the rate of 12.5% on 31.03.2009. Then the vehicle was registered with the Motor Vehicles Department on 01-04-2009 and was sold to Mr. Siraj on 18-04-2013.

3. The applicant has therefore requested to clarify the rate of tax of used JCB Excavator.

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

5. The subject matter for clarification was examined earlier and as per order No. C3/31587/13/CT dtd. 05/04/14 it was clarified that 'Excavators fall under the HSN Code 8429, classified under the Customs Tariff Act Chapter 'Machinery'. The said HSN Code does not appear in any of the Schedules to the Kerala Value Added Tax Act, 2003. None of the entries in any of the

Schedules is suitable for incorporating this commodity. As such the commodity excavator, whether new or used, would fall under Entry 15 of S.R.O. No. 82/2006. Accordingly the tax liability of a dealer, dealing in this item would be determined as per sec. 6(1)(d) of the Kerala Value Added Tax Act, 2003.'

6. In the light of the above clarification, it is hereby clarified that the rate of tax applicable for used JCB excavator is 14.5 %.

The issues raised above are clarified accordingly.

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

N. Thulaseedharan Pillai
Joint Commissioner (General)
O/o CCT

S. Anil Kumar
Deputy Commissioner (Internal Audit)
O/o CCT

To

Sri.P.N.D.Namboothiri,
Advocate,
Ernakulam Road, Aluva
Pin. 683 101