

PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION
UNDER SECTION 94 OF THE KERALA VALUE ADDED TAX ACT, 2003
DEPARTMENT OF COMMERCIAL TAXES, KERALA.

Members present are:

1. B.S Thyagarajababu, Joint Commissioner (General),

2. A. Nazurudeen, Joint Commissioner (A & I),

3. M.I. Mansur,
Deputy Commissioner (Internal Audit),
Thiruvananthapuram.

Sub:- KVAT Act, 2003 – Clarification U/s 94 – Application put in by M/s.Asianet Satellite Communication Ltd. – Orders issued- reg.

Read:- 1.Application dated 27-06-2012 M/s.Asianet Satellite Communication Ltd
2. Final Hearing Dt.25-10-2018.

ORDER No.C3/20734/2012/CT DATED 27-03-2019

M/s. Asianet Satellite Communication Ltd. is engaged in the broadcasting and telecasting business. In the course of business, they provide ‘time-slot’ allotment for advertisers for showing advertisement in the interval of programmes.

The Asst. Commissioner, Spl. Circle, Thiruvananthapuram issued a notice under KVAT Act for the period 2006-07 to 2010-11 proposing to assess the income derived by the applicant on allotting ‘time slots’ for different parties for advertisement in intervals in the television channel.

The applicant requested the following clarification:

- (a) whether allotment of time slots to different parties for advertisements in intervals in the television channel amounts to “transfer of right to use any goods for any purpose” coming under Sec.6(1)(c) of the KVAT Act, 2003; and
- (b) whether the revenue derived consequently is assessable at the hands of the applicant.

The authorized representative of petitioner was heard. It was argued that the definition of 'goods' defined under Section 2(xx) will not attract allotment of time slot. A goods should have characteristic of utility, capable of being bought or sold or capable of transmitted, transformed, delivered, stored and possessed. The time slot allotted to the customer will not confirm the description of 'goods'. In the case of transfer of right to use, transfer of goods to the exclusive possession of the transferee enabling him to use the goods is necessary. Such transfer is not possible in the case of 'time slot'. 'Time slot' is neither delivered to the customers, nor hold it or use it as goods. The applicant also contended that they are paying service tax for the same as defined under the Finance Act, 1994. As per the Finance Act, 1994 that "**Sale of space or time for advertisement**" for the purpose of section 65(105) (zzzm), includes,-

(i) providing space or time, as the case may be, for display, advertising, showcasing of any product or service in video programmes, television programmes or motion pictures or music albums, or on bill-boards, public places, buildings, conveyances, cell phones, automated teller machines, internet;

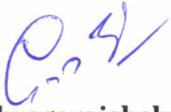
(ii) selling of time slots on radio or television by a person, other than a broadcasting agency or organization; and

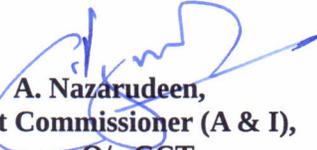
(iii) aerial advertising

The matter was examined in detail. 'Time slot' is a length of time allotted to someone or something, especially in a broadcasting schedule. Normally, part of a time segment is bought by an advertiser for the airing of a commercial on radio or television. Time slot belongs to the broadcasting company. To show advertisements in a time slot does not grant the advertiser and element of ownership to the time-slot. The time slot also cannot be delivered to the advertiser. The advertiser has no control over the time slot. The full control of the time slot wrights with the broadcasting company. The advertiser has only control on the content of the advertisement. The advertisement is aired by the broadcasting company by using its own resources for which the advertiser has no ownership or control. Thus, the time slot per se cannot be considered as intangible goods. Hence, in this case, there is no transfer of any goods, whether by way of absolute sale or by way of transfer of right to use of goods. This is only a service offered by the broadcaster to the advertising company to show an advertisement of his choice at a specific time period. As such, there is no transfer of right to use of time slot by the allottee. It is only a service provided by the broadcasting company for which service tax is paid to the Central Excise

Department. Therefore, it is clarified that the service of allotment of time slot by a broadcaster to an advertiser on payment of consideration is not exigible to tax under Sec.6 of the KVAT Act.

The issues raised above are clarified accordingly.


B.S Thyagarajababu,
Joint Commissioner (General),
O/o CCT


A. Nazarudeen,
Joint Commissioner (A & I),
O/o CCT


M.I. Mansur,
Deputy Commissioner
(Internal Audit), O/o CCT

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