

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 (General),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.

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

3. V.J. Gopakumar.
Deputy Commissioner (General),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.

Sub : KVAT Act, 2003 – Clarification U/s 94 – Rate of tax of brooms,
brushes and mops made of plastic – Orders issued.

Read : Application from Sri. E.N. Chandradathan, M/s. Yesjay Plast,
Alangadu dtd. 31/3/2015.

ORDER No.C3/12306/15/CT DATED 1/9/2015.

1. Sri. E.N. Chandradathan, M/s. Yesjay Plast, Alangadu, has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003, seeking clarification on the rate of tax applicable on:

- i. *brooms, brushes and mops of handles made of iron rods and bottom cleaning portion touching the floor with exclusively looms and threads of cotton.*
- ii. *brooms, brushes and mops of handles made of plastic rods as well as aluminium or iron rods and bottom cleaning portion touching the floor with exclusively rubber pad.*

2. The applicant has referred to Entry 7 of the First Schedule which reads:

7 *Brooms and brushes including mops of a kind used for floor cleaning and toilet cleaning other than those specifically mentioned in the Third Schedule*

3. The applicant has also referred to the Third Schedule Entry 18A introduced vide Kerala Finance Act -2015 which is extracted hereunder:

18A *Brooms, brushes and mops made of plastic used for floor cleaning and toilet cleaning*

4. The applicant would contend that in none of the above said entries, HSN Code is given. The applicant placing reliance on the Rules of Interpretation would contend that since no HSN Code has been given, both the entries have to be examined in common parlance.

5. The applicant would further contend that in the case of brooms, brushes and mops, the activity of cleaning is done by that portion of the device which gets in touch with the surface to be cleaned. So, where the entry uses the adjective 'made of plastic', it refers to that part of the device which does the cleaning process. So Entry 18A of the Third Schedule will apply only to brooms, brushes and mops, whose part which does the cleaning process is made of plastic, irrespective of the handle or rod at the end of which the bristles or threads are attached. All other types will be covered by Entry 7 of the First Schedule.

6. The applicant would also contend that in the case of products, on which clarification has been sought, the cleaning portion is made of looms and threads of cotton or rubber pad and hence they will fall under Entry 7 of the First Schedule to the Act.

7. The applicant has requested to clarify the rate of tax of the commodities.

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

9. The intention of the Legislature in introducing Entry 18A of the Third Schedule was to promote the use of natural fibre items which are bio-degradable and also to discourage the use of plastic items which are hazardous to the environment. Apparently the Legislative intention was to tax all those brooms, brushes and mops, in the manufacture of which plastic is used in any form, either in the handle or in the portion used for cleaning.

10. As such, it is clarified that brooms, brushes and mops, in the manufacture of which plastic is used in any form, either in the handle or in the portion used for cleaning would be taxable at the rate of 5% by virtue of Entry 18A of the Third Schedule to the Kerala Value Added Tax Act, 2003.

The issues raised above are clarified accordingly.

T.K. Ziavudeen
Joint Commissioner (A&I)

Dr. A. Bijikumari Amma
Joint Commissioner (Law)

V.J. Gopakumar
Deputy Commissioner (General)

To

M/s. S. Anil Kumar, K.S. Hariharan & K. Uma Maheswar,
Advocates,
Haridev Buildings, Old Railway Station Road,
Kochi – 682 018.