

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

2. N. Thulaseedharan Pillai.
Joint Commissioner (General),
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 Dolomite – Orders issued.
Read : Application from M/s. Southern Phosphate & Mineral, Kochi dtd. 6/5/2015.

ORDER No.C3/16043/15/CT DATED 19/10/2015.

1. M/s. Southern Phosphate & Mineral, Kochi has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax of dolomite.

2. The applicant is a dealer registered under the Kerala Value Added Tax Act, 2003 borne on the rolls of the Office of the Assistant Commissioner (Assessment), Special Circle-III, Ernakulam, and is a dealer in fertilizers and agro based products. The applicant deals in natural rock phosphate, urea, MOP, DAP and dolomite. The applicant would submit that the commodity dolomite is purchased from Karnataka; Tamil Nadu etc. against 'C' Form Declarations.

3. The applicant would contend that dolomite is a lime mineral containing calcium and magnesium. Dolomite is a natural mineral pulverized to the required fineness which is applied to the soil and hence it should fall under the category of fertilizers. Moreover the end use of the material should be the prime criteria for fixing Sales Tax. Dolomite dealt by the applicant is used only for agricultural purpose (Dolomite Fertilizer Grade) and all kinds of fertilizers are exempted under the Kerala Value Added Tax Act. The applicant would further contend that under the KGST Act, 1963, Dolomite was included under Schedule I, Entry No 57. Thereafter the item was shifted to Schedule III - Entry No. 81(6) under the Kerala Value Added Tax Act. By the Finance Act, 2011, all fertilizers, bio-fertilizers, micronutrients, and similar items were included under Entry No.17B of the First Schedule and dolomite which is a micronutrient is to be classified under this Entry.

4. The applicant placing his reliance upon the State Planning Board's publication 'Fertility of Soils of Kerala-2013' would contend that the mineral dolomite is a component of calcium and magnesium and is used as a micronutrient.

5. The applicant would further contend that dolomite listed in Entry 81(6) of the Third Schedule to the Act is a product consumed in the manufacture of cement and is of higher grade and purity, and is costly. The dolomite used for agricultural purpose is low grade and low cost.

6. The applicant has requested to clarify the rate of tax of the commodity.

7. The applicant was heard in the matter and the contentions raised were examined.

8. Entry 81(6) of the Third Schedule to the Act as relevant to the context is extracted hereunder:

81 *Lime, limestone, clinker and dolomite*

(6) *Dolomite*

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9. Dolomite is essentially an industrial input, which may also be used as a fertilizer. The Legislative intention is clear in the above said Entry whereby all types of dolomite have been specifically included within the scope of the said Entry. In view of the above facts, it is hereby clarified that all types of dolomite would be taxable at the rate of 5% by virtue of Entry 81(6) of the Third Schedule to the Kerala Value Added Tax Act, 2003.

The issues raised above are clarified accordingly.

Dr. A. Bijikumari Amma
Joint Commissioner (Law)

N.Thulaseedharan Pillai
Joint Commissioner (General)

V.J. Gopakumar
Deputy Commissioner (General)

To

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