

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. C. Lalappan.
Joint Commissioner (Audit & Inspection),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.

2. T.K. Zivudeen
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 Aluminium profiles used for Door Bottom, Door top, Verticals, etc. - Orders issued.

Read : Application from Aluminium Dealers Forum, Ernakulam dtd. Nil.

ORDER No.C3/19325/14/CT DATED 22/4/2015.

1. Aluminium Dealers Forum, Ernakulam has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax of the following commodities:

Aluminium profiles hollow and other than hollow:-

- a) that can be used for making doors, their frames and partitions
- b) that can be used for making windows and their frames
- c) that can be used for making showcase, kitchen cabinets etc.

2. The applicant would contend that aluminium profiles come in thousands of different shapes and sizes. They are manufactured using the extrusion process. Extrusion is a process that allows great flexibility in shape and thickness by using different dyes. Thus aluminium manufacturers can produce different profiles on the same extrusion press using different dyes. Profiles here mean long aluminium articles whose cross section remains the same throughout its length. Rods, tubes, pipes, channels of different shapes can be extruded. It makes aluminium extrusions so versatile and gives it an edge over other metals. However the limitation is that they come in long and straight pieces. Most commonly, they come in 3.66 mtrs length. They need to be cut and fabricated by skilled workers before putting to any end use.

3. The applicant would contend that their members are selling Hollow Profiles, Pipes and Tubes and Profiles other than Hollow. The HSN Codes of these items are:

Aluminium Extruded Hollow Profiles	7604.21.00
Aluminium Extruded Profiles other than Hollow	7604.29.90
Aluminium Extruded Pipes & Tubes	7608.20.00

The suppliers of these materials are all mentioning the above HSN code and are paying the Excise Duty as per the said HSN code only.

4. The applicant would submit that wholesalers and retailers bill these items in their common trade names like 50 mm x 25 mm rectangle, glazing clip, door bottom, kitchen cabinet section, shutter plain etc. This is done so that they can be easily identified by them as well as by their customers. These goods are meant to be used as aluminium profiles but are called or referred by their trade name. The generic name is not used as it may not be easily understood by the public at large. For example, door bottom is the trade name of an Aluminium Hollow Profile with HSN code 7604.21.00. It gets its name from the fact that it can be used along with many other sections to make doors.

5. The applicant has referred Entry 29 of S.R.O.No.82/2006 and would contend that:

(i) *Door Bottom / top / divider / vertical are not doors. However they can be used to make doors. To make a door one needs different aluminium sections like door bottom, door top, door divider, door vertical and glazing clip along with other accessories like screws, hinges, bolts, nuts, glass, board, handles and lock. Moreover one needs the labour of a skilful fabricator to cut and fix all the above together. There is no dispute here about the rate of tax of doors, which is clearly 14.5%. What needs to be clarified is that aluminium profiles (hollow or otherwise) with HSN 7604 and 7608 are different from Aluminium doors with HSN 7610.10.00. Just as a door mat is different from door, door bottom is also different from door.*

(ii) *Similarly the S.R.O. mentions "Door / window frames and thresholds for doors". A "Door frame" is defined in the oxford dictionary as follows:*

Noun: the frame in a doorway into which a door is fitted.

In Malayalam it will be called 'Katla'. Door frames will cover three sides of a door way and window frames cover all four sides of a window. Here too, the above mentioned sections which are long and straight (always sold in 3.6 mtrs length) cannot be called door frames. Similarly thresholds for doors are always made of wood or stone. They are never made of metals.

6. The applicant has requested to clarify the rate of tax of the commodities stated supra.

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

8. Entry 3(1) of the Third Schedule to the Kerala Value Added Tax Act, 2003 takes within its ambit **Articles and other utensils of aluminium**. As such, it is hereby clarified that Aluminium profiles classified under the HSN Codes 7604 to 7608 and those falling under the HSN Code 7610.90 would be taxable at the rate of 5% by virtue of Entry 3(1)(a) to (e) of the Third Schedule to the Kerala Value Added Tax Act, 2003, when sold as such, irrespective of the market parlance the traders assign to them.

The issues raised above are clarified accordingly.

C. Lalappan
Joint Commissioner (A&I)

T.K. Ziaudeen
Joint Commissioner (General)

V.J. Gopakumar
Deputy Commissioner (General)

To

Sri. P. Santharam Shenoy,
Partner,
M/s. Nayar & Menon, Chartered Accountants,
First Floor, Mubarak Complex,
Opp. Lisie Hospital, Kochi – 682 018.