

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 (Audit & Inspection),
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 on tyre re-treading – Orders issued.

Read : Application from M/s. Ooppoottil Tyre Re-treading, Menamkulam, Thiruvananthapuram dtd. 18/6/2015.

ORDER No.C3/21710/15/CT DATED 7/4/2016.

1. Sri. Thomas Kurien, M/s. Ooppoottil Tyre Re-treading, Menamkulam, Thiruvananthapuram has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax on tyre re-treading.

2. The applicant is engaged in the business of pre-cured tyre re-treading by purchasing pre-cured tread rubber by paying VAT @ 5%. The applicant would contend that their business comes under the heading works contract under repairs and maintenance. The applicant has been paying VAT on total turnover by opting compounding. From the year 2015-16 onwards, the applicant intends to avail IPT credit on VAT. The applicant is also paying Service Tax on labour/service portion of the Bill. The applicant has requested to clarify the rate of VAT to be collected in the above instance.

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

4. The applicant undertakes tyre re-treading works. It is a type of works contract where the transfer of goods involved in the execution of the contract is not in the form of goods, but in some other form. As per the Table to clause (b) of sub-rule (2) of Rule 10, in the case of tyre re-treading contracts, the labour charges allowable in cases where the books of accounts are not maintained is 50% of the value of the contract. From the above, it can safely be concluded that

the intention was not to include the above work in the category 'transfer in the form of goods'. As such, as per Section 6(1)(f) of the Kerala Value Added Tax Act, 2003, the applicant shall be liable to pay tax at the rate of 14.5% on the transfer value of goods. It being so, the applicant can avail input tax credit on local taxable purchases. Further when a dealer pays tax as per accounts, since labour portion is exempt from VAT and Service Tax is payable on the labour portion, Value Added Tax will not be applicable on the Service Tax paid.

The issues raised above are clarified accordingly.

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

Dr. A. Bijikumari Amma
Joint Commissioner (Law)

V.J. Gopakumar
Deputy Commissioner (General)

To,

Sri. Joseph V.E.
Valomtharayil, Amboori P.O,
Kattakada, Thiruvananthapuram.