

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. Ziaudeen.

*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 of Solar LED Lamp and Solar LED Home Lighting system – Orders issued.

Read: Application from Sri. P.J. Johny, Chartered Accountant, Kochi dtd. 15/1/2015.

ORDER No.C3/2405/15/CT DATED 26/5/2016.

1. Sri. P.J. Johny, Chartered Accountant, Kochi has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax of the commodities Solar LED lamp and Solar LED Home Lighting system.

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

3. The Kerala Value Added Tax Act Schedule Entry to be examined with regard to equipments based on solar energy is Entry 6 of the Second Schedule to the Act (as amended vide Kerala Finance Act – 2013) which as relevant to the context is extracted hereunder:

6. Solar energy devices and spare parts

(1) Solar cells	8541.40.11
(2) Solar lanterns and lamps	9405.50.40
(3) Parts of solar lanterns and lamps of—	
(a) glass	9405.91.00
(b) plastic	9405.99.00
(4) Solar energy equipment	****
(5) Solar water heaters and systems	****
(6) Solar crop driers and systems	****
(7) Solar refrigerations, solar cold storages and solar air-conditioning systems	****
(8) Solar stills and desalination systems	****
(9) Solar pumps based on solar thermal and solar photovoltaic conversion	****

(10) Solar power generating system	****
(11) Solar cookers	****
(12) Concentrating and pipe type solar collectors	****
(13) Flat plate solar collectors	****
(14) Solar photovoltaic modules and panels for water pumps and other application	****
(15) Black continuously plated solar selective coating sheets, fans and tubes	****
(16) Vacuum tube solar collectors	****
(17) Solar photovoltaic cells, modules, and other systems/devices	****

4. While interpreting a statutory provision what is of paramount importance is the intention of the Legislature in having incorporated such a provision or entry, as the case may be. The Legislature by virtue of the amendments made by the Kerala Finance Act - 2013 reduced the rate of tax of solar energy devices and spare parts to 1%. The intention behind such an exercise was to promote the use of non-conventional energy sources like solar energy.

5. A consumer who buys the commodities Solar LED lamp and Solar LED Home Lighting system treats them as devices using solar energy as the source of energy for serving their respective purposes. As per the literature produced by the applicant, the commodity Solar LED lamp i.e. *Panasonic BG-BL04DCE-G Multi-purpose Solar LED Light & Mobile Charger* is not only a solar LED lamp, but can also be used as a charger for mobile phones. But it is only an add-on feature which does not alter its basic nature of being solar energy equipment.

6. In the light of the facts and the legislative intention discussed supra, it is here by clarified that the commodity *Panasonic BG-BL04DCE-G Multi-purpose Solar LED Light & Mobile Charger* and the commodity *Panasonic Solar LED Home Light System* would be taxable at the rate of 1% by virtue of Entry 6(2) of the Second Schedule to the Kerala Value Added Tax Act, 2003.

The issues raised above are clarified accordingly.

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

Dr. A. Bijikumari Amma
Joint Commissioner (Law)

V.J. Gopakumar
Deputy Commissioner (General)

To,

Sri. P.J. Johney FCA,
M/s. Johney & Co.
Chartered Accountants,
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