

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 PVC profile panels - Orders issued.

Read : Application from M/s. Mathewsons Industries India Ltd., Kochi dtd. 30/9/2010.

ORDER No.C3/32450/10/CT DATED 20/5/2016.

1. M/s. Mathewsons Industries India Ltd., 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 commodity PVC profile panels.

2. The applicant is engaged in the manufacture and sale of PVC profiles and has Central Excise Registration. The profiles are manufactured through a process involving melting of PVC resin and thereafter extruding through dies/moulds so as to get profiles of various shapes and sizes. Sheets with two top and bottom layers and vertical flues joining the top and bottom layers at regular intervals and the space generated between the top and bottom layer and the vertical flues remains hollow. The product manufactured by the applicant is used for door frames, window frames, door panels, window panels, kitchen cupboards, tables, wardrobes, wall partitions, wall ceiling etc.

3. The applicant would contend that the product when sold without any further manufacture of doors, windows, cup-boards, table etc. is only PVC profiles used as Industrial Inputs coming under Entry No.118 (16) of List A of the Third Schedule to the Act.

4. The applicant would contend that the product manufactured by them is exigible to Excise duty, and the Central Excise Department has classified the product under Tariff Item 3916.20.19 under the Central Excise Tariff Act. The applicant placing his reliance upon the Rules of Interpretation of Schedules would contend that the HSN code given against Entry 118(16) of List A is 3916 and therefore the product manufactured and sold by the applicant is to be classified under Entry 66 of Third Schedule exigible to tax at rate of 4%/5%. The applicant has also produced a copy of the letter O.C.No.712/2010 dtd. 23/9/2010 issued by the Superintendent of Central Excise, Kolenchery Range to support his contention.

5. The applicant would also contend that identical goods were the subject matter of consideration by the Hon'ble CEGAT, Mumbai in Caprihans India Ltd. Vs. CCE Aurangabad (2002) 145 ELT 664, which was affirmed by the Hon'ble Supreme Court in 226 ELT 18(SC). The applicant would contend that since the goods considered by the Hon'ble Tribunal and the goods in the present case are one and the same, applying the rationale of the decision of the Hon'ble Supreme Court, the goods are to be classified under HSN 3916 which falls under Entry 118(16) of List A of the Third Schedule taxable at the rate of 4%/5%.

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

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

8. An examination of the copy of the letter O.C.No.712/2010 dated 23/9/2010 issued by the Superintendent of Central Excise, Kolenchery Range produced by the applicant would show that the PVC Profiles manufactured by the applicant is classifiable under the CET Sub Heading No. 39 16 20 19. The said HSN Code is given against Entry No.118 (16) of List A of the Third Schedule to the Kerala Value Added Tax Act, 2003 which reads:

118 Plastic granules, plastic powder and master batches

(16) *Monofilament of which any cross sectional dimension exceeds
1 MM rods, sticks and profile shapes, whether or not surface-worked
but not otherwise worked of plastics* 3916

As per the Rules of Interpretation of Schedules, the commodities which are given four digit HSN Number shall include all those commodities coming under that heading of the HSN. Further those commodities which are given with HSN Number should be given the same meaning as given in the Customs Tariff Act.

9. In view of the above facts, it is hereby clarified that the product manufactured by the applicant viz. PVC Profile classified by the Central Excise authorities under the HSN Code 3916.20.19 would be exigible to VAT at the rate of 5% by virtue of Entry No.118 (16) of List A 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)
(General)

N. Thulaseedharan Pillai
Joint Commissioner (General)

V.J. Gopakumar
Deputy Commissioner

To

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