

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 (A&I),
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 printed photographs in book form – Orders issued.

Read : Application from M/s. Colortone Process Pvt. Ltd., Kochi dtd. 11/11/2015.

ORDER No.C3/36373/15/CT DATED 6/1/2016.

1. M/s. Colortone Process Pvt. 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 printed photographs in book form.

2. The applicant is engaged in the printing and sales of printed materials such as calendars, booklets, brochures, printed photographs in book form etc. People would bring photographs to the applicant's press in CDs or pen drives. The applicant takes printouts in their press and returns it in book form. The applicant receives printing charges and cost of materials for the same. The applicant submits that there is a dispute regarding the rate of tax of this commodity.

3. The applicant would contend that printed photographs in book form can easily be differentiated from photo and stamp albums falling under Entry 77(6) of the Notification S.R.O. No. 82/2006. Photo album is a book in which photos are mounted on the respective pages while printed photographs in book form is in essence photographs printed on papers in printing press and then bound in book form. Both are ex-facie different in nature, in their production line and in common parlance or commercial parlance. The applicant would also submit that the common characteristic of the items in Entry 77 of the Notification is that it can be used by any person at any time and it is always available in the market as an item ready to sell. It is not supposed to be sold to a particular person for his exclusive use. On the other hand, the items which come under Entry 100 are printed materials meant for a particular person as per the specification given by them.

4. The applicant contends that the product would fall under Entry 100(5) of the Third Schedule to Act and has requested to clarify the rate of tax of the commodity.

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

6. The applicant's request is to clarify the rate of tax of printed photographs in book form. An 'album', as understood in the traditional sense, or as per commercial parlance, is a book in which photographs, stamps etc. are kept. The HSN Code appearing in Entry 77(6) of S.R.O. No. 82/2006 is 4820.50.00. The impugned HSN Code takes within its ambit **Albums for samples or for collections** which is different from the product dealt with by the applicant. As such the applicant's product is not includible in the above said Entry.

7. In the impugned case, the applicant is printing photographs in book form. This particular commodity is includible in Entry 100(5) of the Third Schedule to the Kerala Value Added Tax Act, 2003 which reads **Other printed matter, including printed pictures and photographs** with HSN Code 4911. When any goods can reasonably be covered under a specific entry, then resort to residuary entry is not necessitated.

8. As such, it is hereby clarified that the commodity printed photographs in book form would be exigible to VAT at the rate of 5% by virtue of Entry 100(5) of the Third Schedule to the Kerala Value Added Tax Act, 2003.

The issues raised above are clarified accordingly.

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

N. Thulaseedharan Pillai
Joint Commissioner (General)

V.J. Gopakumar
Deputy Commissioner (General)

To,

CA. Stanley James FCA,
Chartered Accountants,
M/s. Saju & Co.,
39/4751, M.G. Road,
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