

**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. *Abdul Jabbar.V.K, Joint Commissioner (General), O/o. CCT, Tvpm.*
2. *T.V. Kamala Bai, Joint Commissioner (Law), O/o. CCT, Tvpm.*
3. *S.K. Suchala Kumar, Joint Commissioner (Audit & Inspection), O/o. CCT, Tvpm.*

Sub :- KVAT Act, 2003 - Clarification U/s 94 - Eligibility to pay tax at compounded rates as provided in sub-clause (i) of clause (c) of section 8 of the Kerala Value Added Tax Act, 2003 - Orders issued.

Read :- Application from Sri. Aneesh K., M/s. Taste N See Bakers, Kochi dated 6/10/2011.

**ORDER No.C3/36782/11/CT DATED 10/2/2012.**

1. Sri. Aneesh K., M/s. Taste N See Bakers, Kochi has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on whether the applicant is eligible to pay tax at compounded rates as provided in sub-clause (i) of clause (c) of section 8 of the Kerala Value Added Tax Act, 2003.

2. The applicant is running a small bakery cum eating joint. The items sold include branded biscuits, confectionery besides bread, cakes, cookies and eatables such as chips etc. and fruit juices. The branded goods are purchased locally from VAT dealers and the other goods are self prepared. The dealer is not registered under Central Sales Tax Act. The applicant cannot opt to pay tax as a presumptive dealer since he is also dealing with goods prepared by him, the sale of which will be first taxable sale within the State.

3. The applicant contend that he preferred an application for paying tax at compounded rate under section 8 of the Kerala Value Added Tax Act, 2003, in his capacity as a dealer in cooked food. The assessing authority has not accepted the application for the reason that the facility is available only for hotels and restaurants. The applicant contends that they are eligible for compounding as a dealer in cooked food and beverages as provided in Section 8 (c) (i) of the Act. The applicant would further contend that his shop is different from hotels and restaurants only to the extent that he did not provide any chairs or tables to the customers but is otherwise same in all respects.

4. The applicant has requested to clarify whether he is eligible to avail the facility to pay tax at compounded rates U/s 8 (c) (i) of the Act.

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

6. Sub-clause (i) of clause (c) of section 8 of the Kerala Value Added Tax Act, 2003, reads '*Any dealer in cooked food and beverages, including beverages prepared by him, other than a dealer supplying cooked food or beverages to any airline service company or institution or shipping company for serving in air craft, ships or steamer or served in air craft, ship, steamer, bar attached hotel or star hotel may, at his option, instead of paying*

*tax in accordance with the provisions of sub-section (1) of section 6 but subject to payment of tax, if any, payable under sub-section (2) thereof, pay tax at half per cent of the turnover of cooked food and beverages prepared by him and also on the turnover of other goods in respect of which he is not the dealer effecting first taxable sale, as defined in the explanation under sub-section (5) of section 6.'*

*'Explanation:- Cooked food for the purpose of this clause shall include sweets and fresh fruit juice prepared and served in the restaurants and hotels.'*

7. Compounding option is allowed to any dealer in cooked food and beverages, including beverages prepared by the dealer. The explanation stated supra would clearly show that cooked food for the purpose of this clause shall include sweets and fresh fruit juice prepared and served in the restaurants and hotels only. With respect to the place of serving, the provision does not include a bakery. Further there are separate entries for bakery products and cooked food in the Schedules appended to the Act and in S.R.O. No. 82/2006.

8. Separate entries in the Schedules mean that cooked food in sub-clause (i) of clause (c) of section 8 of the Kerala Value Added Tax Act, 2003 cannot be interpreted as including bakery products. The legislative intention is clear regarding the compounding option for cooked food as provided in sub-clause (i) of clause (c) of section 8 of the Kerala Value Added Tax Act, 2003. Hence, it is clarified that there is no compounding option for bakery products within the ambit of sub-clause (i) of clause (c) of section 8 of the Kerala Value Added Tax Act, 2003.

The issue raised above is clarified accordingly.

**Abdul Jabbar.V.K.**  
**Joint Commissioner (General)**  
**O/o CCT**

**T.V. Kamala Bai**  
**Joint Commissioner (Law)**  
**O/o CCT**

**S.K. Suchala Kumar**  
**Joint Commissioner (A&I)**  
**O/o CCT**

To,

Sri. K. Nithyananda Kamath F.C.A,  
M/s. S. Murali & Associates,  
Chartered Accountants,  
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