

**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. *V.Murukesh Kumar, Joint Commissioner (General), O/o.CCT, Tvpm.*
2. *Abdul Jabbar.V.K, Joint Commissioner (Audit & Inspection), O/o.CCT, Tvpm.*
3. *A. Asok Kumar, Deputy Commissioner (Internal Audit), O/o.CCT, Tvpm.*

Sub: KVAT Act, 2003– Clarification U/s.94 – Tax Liability on Inter-state purchase of Excavators for Own Use - Orders Issued.

Read: Application from M/s Shrivenkatesha Heavy Equipments, Kochi dated 5/3/2010.

ORDER No.C3/8082/10/CT DATED 30/6/2010.

1. M/s Shrivenkatesha Heavy Equipments, Kochi has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003, seeking clarification on the tax liability on inter-state purchase of excavators for own use.

2. The applicant is the authorized dealer for Hyundai Excavators in Kerala. Hyundai Excavators manufacturing factory is situated in Pune, and their south Indian Customs bonded ware house is at Chennai. Machines manufactured in India are delivering from Pune and imported machines are delivering from Chennai Port.

3. The issue flagged by the applicant is that a customer in Kerala who does not have Commercial Taxes Department registration want to buy an excavator for his own agricultural usage and has requested to clarify the following points in the light of the Kerala Value Added Tax Act, 2003:

- i. Purchase of Excavator from Pune by paying full Maharashtra VAT.
- ii. Import of Excavator through High Sea Sales from Chennai Port.
- iii. Documents to be carried along with the Excavator for clearance at Check posts.

4. The authorised representative of the applicant was heard and the contentions raised were examined.

5. Any person, not being a dealer liable to tax under the Kerala Value Added Tax Act, 2003, can make an inter-state purchase of excavator for his own use, without incurring any tax liability under the Act. There is no legal impediment for an un-registered dealer to make inter-state purchase, except the fact that he is not eligible for concessional rate of Central Sales Tax.

The consignment must be accompanied by Invoice and Form 16. The issue of High Sea sales is outside the ambit of Section 94 of the Kerala Value Added Tax Act, 2003.

The issues raised above are clarified accordingly.

V. Murukesh Kumar
Joint Commissioner (General)
O/o CCT

Sd/-
Abdul Jabbar. V.K.
Joint Commissioner (A&I)
O/o CCT

Sd/-
A. Asok Kumar
Deputy Commissioner (IA)
O/o CCT