

**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 (Law),  
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

2. Dr. A. Bijikumari Amma.  
*Joint Commissioner (A & I),  
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

3. N. Thulaseedharan Pillai.  
*Joint Commissioner (General),  
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

Sub :- KVAT Act, 2003 – Clarification U/s 94 – Import of timber – Floor rate for levying advance tax – Orders issued.

Read:- Application dtd. 02.12.2015 from M/s. Mangaly Industries Pvt. Ltd., Palakkad.

**ORDER No.C3/41250/15/CT DATED 25/09/2017**

1. M/s. Mangaly Industries Pvt. Ltd., Palakkad has preferred an application U/s. 94 of the Kerala Value Added Tax Act, 2003, seeking clarification as to whether the advance tax payable is to be as per the floor rate fixed by the department or the bill of entry value which is higher than the floor price.

2. The applicant would contend that the floor rate for levying advance tax was stipulated in Circular No. 41/06 dtd. 20.11.06 wherein it is specified that since the floor value is fixed and notified, the Bill of Entry value, freight and incidental expenses need not be reckoned over and above the notified value while remitting the advance tax.

3. The applicant would further contend that since the check post authority is not the assessment officer and if the Bill of Entry price is more than the prescribed floor rate, only the assessment officer has to look into it for any suppression since the remittance of advance tax is only provisional in the good interest of the revenue.

4. The applicant has referred to the judgment of the Hon'ble High Court in KMP Timbers & Saw mill vs. Commercial Tax Inspector wherein it is held that

*“Advance tax is only a provisional deposit towards tax and nothing in the Act requires the appellant or any party to pay tax except on actual sale price. The value fixed under the circular for payment of advance tax does not reflect the basis for actual liability. In fact, tax is payable only on actual sale price and the appellant is absolutely free to claim refund of advance tax paid, if it is in excess over tax liability. If there is allegation of under invoicing, it is for the assessing officer to establish the same in adjudication proceedings.”*

5. The applicant has requested to clarify

- i. whether the advance tax payable is to be as per the floor rate fixed by the department or the bill of entry value which is higher than the floor price
- ii. whether lorry freight, insurance, C & F charges, customs duty has to be reckoned and added in the value over and above the floor rate or the VAT stipulated as per the floor rate published has to be remitted.

6. The applicant has submitted argument notes and the contentions raised have been examined.

7. The floor value fixed is only a minimum value. Since the floor value fixed as per circular No. 41/06 is inclusive of freight and other incidental expenses, lorry freight, insurance, C&F charges, customs duty etc. need not be reckoned for the purpose of remitting Advance tax. But, if the Bill of Entry value of the consigned imported timber is higher than the floor rate fixed by the Department, the advance tax payable has to be as per the bill of entry value and not as per the floor rate fixed by the Department.

The issues raised above are clarified accordingly.

**T.K. Ziavudeen**  
**Thulaseedharan Pillai**  
**Joint Commissioner (Law)**  
**Commissioner (General)**  
**O/o CCT**

**Dr. A. Bijikumari Amma**  
**Joint Commissioner (A&I)**  
**O/o CCT**

**N.**  
**Joint**  
**O/o CCT**

To

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