

Circular No.17/2006/CT

Sub: exemption from KVAT Act for KVIB Units-reg

It has been queried whether splints and veneer units under KVIB are eligible for exemption from Kerala Value Added Tax Act, 2003.

The matter has been considered and the following instructions are issued for strict observance.

The term "manufacture" is defined under the Kerala Value Added Tax Act, 2003 as "*.....producing, making, extracting, altering, ornamenting, finishing, assembling or otherwise processing, treating or adapting any goods and includes any process incidental or ancillary to such activity but does not include any process or mode of manufacture as may be prescribed.*"

In view of the above, industrial units approved by the Khadi and Village Industries Commission engaged in the manufacture of splints and veneers for matchers, whether it is using machinery or not, will be covered by Sl.No.55(13) of the 1st schedule to the Act..

It is seen that most KVIB units are making only interstate sales of their products but that in certain districts exemption is granted in respect of the interstate sale of splints and veneers on the ground that the product is exempted under Entry 55 of the First Schedule to the KVAT Act.

As per section 8(1) of the Central Sales Tax Act, 1956, the tax payable on the interstate sales of goods which are supported by 'C' or 'D' Form shall be 4%. But as per section 8(2) of the Central Sales Tax Act, 1956, "*The tax payable by any dealer on his turnover in so far as the turnover or any part thereof relates to the sale of any goods in the course of interstate not falling within sub-section (1) (c) in the case of goods, the sale or as the case may be, the purchase of which is under the sales tax law of the appropriate State, exempt from tax generally shall be nil.*" As per the explanation under the above sub-section, "*a sale or purchase of any goods shall not be deemed to be exempt from tax generally under the sales tax law of the appropriate State, if under that law, the sale or purchase of such goods is exempt only in specified circumstances or under specified conditions or the tax is levied on the sale or purchase of such goods at specified stages or otherwise than with reference to the turnover of the goods.*"

In the case of the products notified by the Khadi and Village Industries Commission, exemption is available only at the point of sale by the manufacturing units approved by the Kerala Khadi and Village Industries Board.

So this is not a general exemption as per sub-section 8(2)(c) of the CST Act, 1956 and tax will be attracted in the case of interstate sales of such products in spite of exemption being available under the KVAT Act on the local sales of such products by the industrial units specified in Entry 55.

So no exemption is allowable in respect of the interstate sales of the products by KVIB units.


Commissioner