

CIRCULAR. 26/05

Sub:- KGST Act, 1963- Assessment on Sugar- instructions issued- reg:

Ref:_ D.O. No. 36/05105/04 Dt.07.08.04 from M.K.Subhakaran.DC.Tvpm

It has been come to the notice of the undersigned that the assessing officers have got an impression that sugar is still an exempted commodity for the purpose of taxation being classified in the 3rd schedule to KGST Act, 1963. The commodity sugar is enlisted under the Heading 17.01 and 17.02 with various sub- heading in the Central Excise Tariff Act, 1985 (Central Act 5 of 1986). In the said Central Act the Commodity sugar is enlisted as follows.

Heading No. 17.01: Cane or beat sugar and chemically pure sucrose in solid form.

Sub-Heading- 1701.10- Sugar in or in relation to the manufacture of which no process is ordinarily carried on with the aid of power.

1701.20- Khandasari sugar, Sugar other than khandasari sugar.

1701.31- Required by Central Government to be sold under Class (F) of sub-heading (2) of section 3 of the essential commodities Act,1955.

1701.39- Other

1701.90- Other

Heading No. 17.02- Other Sugars including chemically pure Lactose, Maltose, Glucose and fructose in any form and preparations thereof- sugar syrups not containing added flavouring etc or colouring matter artificial honey, whether or not mixed with natural honey, caramel, other sugars, including chemically pure lactose, maltose, glucose and fructose in any form.

Sub-Heading:-

1702.11 Palmyra Sugar

1702.19 Other preparations of other sugars

1702.21- in which the reducing sugars expressed as anhydrous dextrose amount to more than 80 % by weight.

1702.22 Other.

1702.30 Sugar- Syrups not containing added flavouring or colouring matter artificial honey whether or not mixed with natural honey caramel.

Heading No. 17.03- Molasses resulting from the extraction or refining of sugar.

Sub-headings: 1703.10- Molassess produced in the manufacture of sugar by vacuum pan process.

1703.90- Other.

Heading No. 17.04 : Sugar confectionary (including white chocolate) not containing
Cocca.

Sub-headings

1704.10- Gums whether or not sugar coated (including Chewing gum
Bubblegum and the like)

1704.90- Other.

Sugar covered under sub-Headings 1701.20, 1701.31, 1701.39 and 1702.11 of the schedule to the Central Excise Tariff Act, 1985 (Central Act 5 of 1986) were covered under entry 56 of the 3rd schedule to KGST Act, 1963 and was exempted from Sales Tax, since additional excise duty was levied by the central Government on those items upto 31.03.1999. But as per the finance Act, 1999 (Act 23 of 1999) the entry 56 of the 3rd schedule to KGST Act, 1963 was amended with effect from 01.04.1999 and as per the amended entry sugars covered sub-heading 1701.31 and 1701.39 of the schedule to the Central Excise Tariff Act, 1985 (Central Act. 5 of 1986) alone are exempted from taxation.

This statutory position has been affirmed by the Hon'ble High Court of Kerala while disposing the OP Sales Tax Officer Vs. Louis Dreyfuss India (P) Ltd, reporting in (2004) 12 KTR 348 (Ker). Thus sugar covered by sub-heading 1701.20 and 1702.11 which were kept outside the net of taxation prior to the amendment of entry 56 of the 3rd schedule to KGST Act 1963 made vide Finance Act, 1999 are exigible to sales tax along with other items mentioned supra.

In these circumstances all assessing authorities are directed to bare in mind the statutory position while completing assessments on sugar and to make a review in respect of the assessments made on sugar where required.

All Deputy Commissioners shall ensure that the above directions are complied with and action taken to safeguard the revenue.

The receipt of the circular may be acknowledged.

Sd/
Commissioner

//By Order //

Deputy Commissioner (General)

To

All Deputy Commissioners.