

**10. PROCEEDINGS OF THE COMMISSIONER, COMMERCIAL TAXES  
THIRUVANANTHAPURAM**

Present: Sri.Paul Antony.IAS

Sub: - KVAT Act 03- Clarification U/s. 94-Request by M/s. Thamarappally Rubber Co. Ltd. Kottayam- Clarified orders issued- Reg:  
Read: - 1. Application Dt. 01.06.05 from The Thamarappally Rubber Co.Ltd. Kottayam  
2. Posting Notice No. VC1.31013/05 Dt.25.07.05 and 13.12.05  
3. Letter no.TRC.461/05-06 Dt.19.12.05 from The Thamarappally Rubber Co.LTd, Kottayam

**ORDER No.C7.31013/05/CT Dt.24.01.06**

M/s. The Thamarappally Rubber Co Ltd, Kottayam has put in an application under section 94 of KVAT Act 03 and requested to clarify whether cess portion is to be added to sales value of field latex sold to persons other than Manufacturers.

When the case was posted for hearing, the applicant did not appear and requested to dispose of the application on merits.

The Thamarappally Rubber Co Ltd. Kottayam is effecting sales to persons other than manufacturers and the purchasers are only centrifuging the field latex. No cess is payable by the purchasing dealers. The point sought for clarification is whether Rubber cess payable on field latex, field coagulant etc will form part of sales turnover of such items sold to persons other than manufacturers. They further contended that the items are agricultural products.

It is clarified that the cess payable will form part of turnover of Rubber, right from the stage, where the planter sells rubber – Rubber- natural, compounded, synthetic, reclaimed and other forms included in Sl.No. 134 of Industrial Input in List A of entry 66 of the 3<sup>rd</sup> schedule, taxable @ 4 % under the KVAT Act 03 as amended by the KVAT (Amendment) Act 05. Natural Rubber latex is enlisted as 134 (l) (b). Coming to the point for clarification on cess payable under the Rubber Act 1947, it is clarified that cess is levied under section 12(1) of the Rubber Act 1947 from the owner of the estate on which rubber is produced or from the manufacturers by whom the rubber is used. By section 12(1) of the Rubber Act 1947, a cess at the rate prescribed in statutorily levied on the rubber so produced and the liability to pay the said amount of cess gets attached to the rubber produced. In state of Kerala Vs MRF Ltd reported in (1998) 6 LTR 118 SC the Hon'ble Supreme Court held that the cess is attached to production and the manufacturer is liable to pay the same. Who ever pays it; it is on behalf of the manufacturer. Under the KVAT Act, 2003, Rubber is taxable at all points of Sale. Where a dealer sells rubber, the seller cannot collect the cess amount from buyer since cess will be actually paid by the manufacturer. But the cess amount shall be notionally included in Turnover. The seller will have to collect tax on

cess amount for the buyers. So it is clarified that the applicant has to collect tax as  
cess element also even if the buyer is not doing direct manufacturing.

The point sought for is clarified as above.

Sd/  
Commissioner