

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

Sub: KVAT Act, 2003 – Clarification U/s.94 – Rate of tax of Biodiesel - Orders Issued.
Read: Application from M/s P. K. Trading Company, Kozhikode dated 27/3/2010.

ORDER No.C3/11473/10/CT DATED 2/7/2010.

1. M/s P. K. Trading Company, Kozhikode has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003, seeking clarification on the rate of tax of Biodiesel.

2. The applicant contends that biodiesel is a natural and renewable domestic fuel alternative for diesel engines made from vegetable oils, mostly soyabean or corn. It contains no petroleum and is non-toxic and biodegradable. Biodiesel is manufactured and synthesized by a simple chemical reaction of alcohols with vegetable oils known as *transesterification*.

3. But petroleum is formed and synthesized from rock oil which is purified in refineries. Petroleum products are classified and differentiated according to the different stages of refining crude oil. Sulphur is the major and essential ingredient in petroleum products.

4. The applicant contends that bio diesel is manufactured using vegetable wastes and other biodegradable mass by a special chemical process called *transesterification* and it contains no sulphur which is the highlighting feature of a petroleum product. The major chemical present in bio diesel is methyl ester, so in industrial parlance, biodiesel is known as methyl soyate. The flash point of bio diesel is very high when compared with petroleum products.

5. Bio diesel is not a petroleum product by itself and can be used in vehicles with or without engine modifications. Biodiesel in its pure form popularly known as B100 can be used only with engine modifications.

6. The applicant would further contend that considering the ingredients, manufacturing process, features and energy levels, biodiesel is not a petroleum product. Since biodiesel does not come within the purview of petroleum product, it cannot be subjected to the provisions of Petroleum Act 1934 and therefore no special license is required for transportation and storage of biodiesel.

7. The applicant has requested to clarify whether Biodiesel is a petroleum product and the rate of tax of the commodity.

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

9. Bio diesel is manufactured using edible oils like soya bean oil, rapeseed oil, palm oil and other bio-degradable wastes by a process called **transesterification**. It is not of petroleum in origin.

10. The transesterification process involves mixing at room temperature methanol (50% excess) with NaOH (100% excess), then mixing vigorously with vegetable oil and letting the glycerol settle (about 15%) of the biodiesel mix. The supernatant is biodiesel and contains a mixture of methylated fatty acids and methanol.

11. Petroleum on the other hand is a mixture of a very large number of different hydrocarbons. Petroleum products are derived from crude oil. Some of the petroleum products listed in the Kerala Value Added Tax Act, 2003, are Naphtha, Kerosene, Bitumen, Lubricant oils, Paraffin, Natural gas, LPG etc.

12. In view of the above, it can safely be concluded that pure biodiesel, without any blending of the same with petroleum diesel would fall under Kerala Value Added Tax Act, 2003, and as it is not listed in any of the Schedules to the Act, is taxable at 12.5% by virtue of Entry 103 of S.R.O. No.82/2006.

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

T.V. Kamala Bai.
Joint Commissioner (Law)
O/o CCT

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