

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

PRESENT : P. MARA PANDIYAN. I.A.S.

Sub:- KVAT Act 2003- Clarification U/s. 94- Rate of tax on supply of drinking water to Southern Railway- Orders issued- Reg:

Read:- Application from M/s. Hishan Transport, Vadacode.P.O, Dt. 06.02.09

**ORDER NO. C3.6690/09/CT Dated.27..04..2009**

1. The applicant is a dealer registered under KVAT Act, 2003 and is supplying drinking water to Southern Railway on the basis of an agreement. The applicant is not registered under CST Act.
2. The applicant has been filing the returns as a works contractor. Since there is no purchase, production or any process involved in getting water except pumping from wells to the transport vehicle and supplying the water in the tanks provided by the Railways, the amount awarded was shown as works contract amount and compounded at 3 % plus Cess till date in the returns.
3. The work has been awarded by the Southern Railway for the supply of potable water at site and involves more transportation cost and less material cost. The applicant is supplying water from his own well/pond without any purification process. No distilling, medicinating, ionic & de-mineralization process is applied. The drinking water is supplied through applicants own vehicle to the Railway storage tanks.
4. The applicant submits that water supplied by him is an item coming under Schedule I Entry 54 of KVAT Act 2003 with HSN Code 2201.90.90 and is taxable at 0 %. But the assessing authority wants to assess it as sale of water and tax the same @ 12.5% plus Cess.
5. The applicant submits that the contract is awarded by the Southern Railway as a works contract and the tender document specifies the supply of potable water to various stations as and when required by the ADE, Southern Railway and the awarded rate include

cost of water, loading, transporting and loading at requisite sites with necessary equipments by the awardee (supplier) etc. It involves material, labour and transportation of goods. The cost of material involved is nil, since water is derived from natural source.

6. The applicant has requested to treat the item as works contract and allow to compound U/s. 8(a)(i) of KVAT Act, 2003 or to confirm that the item is coming under Schedule I, Entry 54 of KVAT Act, 2003.

7. The authorised representative of the applicant was heard and the copy of the agreement submitted was examined.

8. Entry 54 of the First schedule, KVAT Act 2003, reads 'Water other than aerated, mineral, distilled, medicinal, ionic, battery, demineralised and water sold in sealed container' with HSN Code 2201.90.90 which is exempted.

9. The copy of the agreement submitted discloses, the transaction involves only supply of water (in the form of goods) for which only schedule rate will apply. Since such water is taken from well, transported through tankers it will fall under Entry 54 of the 1<sup>st</sup> Schedule of KVAT Act 2003 and therefore there is no taxability in this transaction.

10. The points raised above is clarified accordingly.

Commissioner