

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. Dr. A. Bijikumari Amma

*Joint Commissioner (Law),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

2. N. Thulaseedharan Pillai.

*Joint Commissioner (General),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

3. V.J. Gopakumar.

*Deputy Commissioner (General),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

Sub : KVAT Act, 2003 – Clarification U/s 94 – Rate of tax of certain toys – Orders issued.
Read : Application from M/s. Nandi Marketing, Thrikkakara, Ernakulam dtd. 9/4/2015.

ORDER No.C3/13485/15/CT DATED 26/10/2015.

1. M/s. Nandi Marketing, Thrikkakara, Ernakulam has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax of certain toys.

2. The applicant is a dealer in Toys – Manual as well as Battery operated and other products. The applicant imports toys and sell the same in the local market. The applicant would contend that the HSN Code of the ‘Toys – Battery operated’ that they import is 9503.00.90. The applicant placing reliance upon the Rules of Interpretation of Schedules and the Apex Court judgment in Reckitt Benckiser Case would contend that the commodity ‘Toys – Battery operated’ classified under the HSN 9503 would be taxable at the rate of 5% by virtue of Entry 130(3) upto 31/3/2015.

3. The applicant also deals in Toys – Manually operated made exclusively of plastic and Toys made of metals with plastic accessories. The applicant has requested to clarify the following points:

- i. Whether ‘Toys – Battery operated’ with HSN 9503.00.90 fall under Entry 130 of the Third Schedule upto 31/3/2015.
- ii. Rate of tax of ‘Toys – Battery operated’ from 1/4/2015.
- iii. Rate of tax of ‘Toys Manually operated made exclusively of Plastic’ from 1/4/2015.
- iv. Rate of tax of ‘Toys Manually operated made exclusively of Metal’ from 1/4/2015.
- v. Rate of tax of ‘Toys Manually operated made of Metals with Plastic accessories’ from 1/4/2015.

4. The authorised representative of the applicant was heard in the matter and the contentions raised were examined.

5. Entry 130 of the Third Schedule to the Kerala Value Added Tax Act, 2003 prior to the Kerala Finance Bill - 2015 stood as follows:

130 Toys excluding electronic toys

- | | |
|---|------------|
| (1) Wheeled toys designed to be ridden by children (for example, tricycles, scooters, pedal cars); dolls' carriages | 9501.00.10 |
| (2) Dolls representing only human beings | 9502 |
| (3) Other toys | 9503 |

6. The Customs Tariff Item 9503, as relevant to the context, is extracted hereunder:

9503 TRICYCLES, SCOOTERS, PEDAL CARS AND SIMILAR WHEELED TOYS; DOLLS' CARRIAGES; DOLLS; OTHER TOYS; REDUCED-SIZE ("SCALE") MODELS AND SIMILAR RECREATIONAL MODELS, WORKING OR NOT; PUZZLES OF ALLKINDS

9503 00	- Tricycles, scooters, pedal cars and similar wheeled toys; dolls' carriages; dolls; other models, working or not;
	toys; reduced-size ("scale") models and similar recreational puzzles of all kinds:
9503 00 10	--- Of wood
9503 00 20	--- Of metal
9503 00 30	--- Of plastics
9503 00 90	--- Other

7. The applicant has produced copies of the Bill of Entry for Home Consumption wherein the HSN Code mentioned is 9503.00.90. Since there is a specific HSN Code, classification under any other HSN Code is not warranted. As such, it is hereby clarified that those toys imported by the applicant which are classified by the Customs Authorities under the HSN Code 9503.00.90 would be taxable at the rate of 5% upto 31/3/2015 by virtue of Entry 130(3) of the Third Schedule to the Kerala Value Added Tax Act, 2003 (as it existed prior to Kerala Finance Bill – 2015).

8. A perusal of the product catalogue submitted by the applicant also mentions Prams. It may be noted that prams (Baby carriages) are not includible in the HSN Code 9503; as it is classified under the HSN Group 8715 which reads:

8715 BABY CARRIAGES AND PARTS THEREOF

8715 00	- Baby carriages and parts thereof:
8715 00 10	--- Baby carriages
8715 00 20	--- Parts

The said HSN is not included in any of the Schedules to the Act. Hence Baby Carriages would be taxable at the rate of 14.5% by virtue of Entry 76(1) of S.R.O. No. 82/2006.

9. As per the Kerala Finance Act, 2015, Entry 130 of the Third Schedule has been amended as follows:

130 Toys excluding electronic and plastic toys **xxxx**

10. The intention of the Legislature was to tax all types of electronic toys and all such toys made of plastic or having components or accessories made of plastic at RNR. Further, the amended

Entry 130 of the Third Schedule does not have any HSN Code. As such, it is hereby clarified that all electronic toys would be taxable at the rate of 14.5% by virtue of Entry 35 of S.R.O. No. 82/2006 w.e.f.1/4/2015. It is also clarified that all manually operated toys made of plastic and all manually operated toys made of metals with plastic accessories would be taxable at the rate of 14.5% w.e.f 1/4/2015. It is also clarified that manually operated toys made exclusively of metal would be taxable at the rate of 5%.

The issues raised above are clarified accordingly.

Dr. A. Bijikumari Amma	N.Thulaseedharan Pillai	V.J. Gopakumar
Joint Commissioner (Law)	Joint Commissioner (General)	Deputy Commissioner (General)

To

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