

14. 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 Powder Coating –Orders issued- Reg:

Ref:- Application from M/s. Rainbow Powder Coating, Kottayam dt. 11.01.08.

ORDER No.C3.2318/08/CT Dated.17..04..2009.

1. M/s. Rainbow Powder Coating, Kottayam has put in an application U/s. 94 seeking clarification on taxation on powder coating.
2. M/s. Rainbow Powder Coating, is engaged in the business of powder coating on steel furniture, automobile spare parts, electric D.P boxes etc., Chemicals and raw materials purchased from within the state from Registered dealers are used for powder coating. Job work charges are received on completion of the powder coating. The goods meant for powder coating are entrusted by the customers.
3. Powder coating provide good finish, de-rusting and protects peeling. Mat finish, semi glossy, glossy, super glossy, structure finish, Texture finish and fine structure finish are the types of powder coating done at present.
4. The goods received for powder coating is first chemically cleaned using alkali for de-oiling as well as for removing mud particles. Then it is washed for de-alkaline. The goods are then subjected to de-rusting process. It is then rubbed with cloth and washed with water. Next process is pre-coat with certain water soluble chemicals. The goods are dipped here for another half hour. It is then shifted to a separate tank for phosphating. Zinc and other chemicals are used for phosphating. It is washed in water and then dipped into passivation chemicals and dried and rubbed with cloth. Next process is powdering by the use of epoxide resin. This is done in a booth by gun spraying resin. It is continued till 80-100 micron powder is coated. It is then transferred to electric oven. Heating is between 185 -210°C. Then it is allowed to cool, packed and returned to the customer.
5. Entire chemicals and raw materials are purchased by the applicant. By accretion the powder is coated and returned. Labour and service in greater quantity is involved in this act.
6. The applicant was paying VAT @ 4% on the taxable sale turnover worked out as Total receipt less labour and service charges. The assessing authority has raised a finding that the

entire sales turnover is liable to tax at 12.5%. No deduction was allowed. The returns in Form 10 stands rejected and an assessment U/s. 25(1) proposed.

7. The applicant has submitted that there is no sale of any commodity in the above business. It is a works contract not in the form of any goods. Exemption relating to labour and service charges is to be allowed. The assessing authority has taken up the case U/s. 25(1) of the KVAT Act on the grounds that this is sale that labour and service charges is not exempted and the tax rate is 12.5% and that as the applicant exempt the labour charges 20 % of the total cost has been added back and assessed to tax. Interest U/s. 31 (5) also ordered.
8. The applicant has requested to clarify the following.
 - (a). Whether the powder coating is a direct sale of goods or any works contract.
 - (b) If works contract, whether the applicant is entitled to claim exemption on entire labour and service and related profit.
 - (c) Whether the assessing authority is justified in treating this as sale of goods and in making 20% addition on the total turnover without any case or verification of accounts.
9. The authorised representative of the applicant was heard.
10. In the above said case, the process involved is powder coating done on the material supplied by the customers. In works contract, what is taxable is the transfer value of materials incorporated in the work. The work involves labour portion also which is eligible for exemption.
11. Therefore, the process is a works contract and what is assessable is the transfer value of materials incorporated in the work after deducting the labour portion. The said portion is taxable at 12.5%. The applicant is also legally eligible for input credit on the purchase made, provided the same is purchased from Registered dealers and incorporated in the work.

The points raised above is clarified accordingly.

Commissioner