

**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. K.J. Valsala Kumari,**  
**Joint Commissioner (General),**  
**Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.**

**2. T.V. Kamala Bai,**  
**Joint Commissioner (Law),**  
**Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.**

**3. S.K. Suchala Kumar,**  
**Joint Commissioner (Audit & Inspection),**  
**Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.**

Sub :- KVAT Act, 2003 - Clarification U/s 94 - Manufacture, fabrication and supply of retro-reflective LC, caution / speed warning boards for Railways and the tax liability under the Act - Orders issued.

Read :- Application from M/s.CBM Industrie Ltd., New Delhi dtd. 24/5/2012.

**ORDER No.C3/16806/12/CT DATED 30/11/2012.**

1. M/s. CBM Industrie Ltd., New Delhi has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the tax liability on manufacture, fabrication and supply of retro-reflective LC, caution / speed warning boards for Railways.

2. The applicant has entered into contracts with the Southern Railway for the manufacture, fabrication and supply of retro-reflective LC, caution / speed warnings in Thiruvananthapuram Division. These items will be manufactured as per the specifications given by Railways at the factory of the applicant situated outside the State of Kerala and the boards so manufactured will be sent to Railways directly from the applicant's factory outside the State of Kerala to the worksites coming under the Thiruvananthapuram Division. The goods will be taken delivery of by the authorised officers of the Railway. The installation of the boards are not entrusted to the applicant. Railways hold the view that since the work is executed as per the specifications given by Railway and payments are made from Kerala, works contract tax @ 10% has to be deducted by them from the payments made to the applicant as the applicant is not a dealer registered under the provisions of the Kerala Value Added Tax Act, 2003.

3. The applicant has also produced a copy of the work order No. V/W/T.78/2011 dated 22/11/2011 relating to the above said work and has requested to clarify the following:

- i. Whether with reference to the above said work, the applicant is liable to pay any tax under the Kerala Value Added Tax Act for the supply of items mentioned in the supply order, made by the applicant to the Railways from the factory of the applicant situated outside the State?
- ii. If not, whether the applicant is liable to get registered as a dealer under the Act?
- iii. Whether, Railways are required to make any deductions from the payments made in respect of the said contracts under section 10 of the Act and if so, at what rate?

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

5. Goods manufactured as per the specification of Railways and ascertained by them moves from outside the State on the basis of a pre-determined contract billed to Railways directly, is clearly an inter-state transaction which attracts no tax under the Kerala Value Added Tax Act, 2003. Further in the application seeking clarification it is specifically stated that the installation is not done by the applicant. Hence they are not liable to take out registration under the Kerala Value Added Tax Act, 2003 and there will not be any turnover under the Kerala Value Added Tax Act, 2003 liable to be assessed. If there is no local taxable transaction then Section 10 has no application and the awarder is not liable to deduct any tax.

The issues raised above are clarified accordingly.

**K.J. Valsala Kumari**  
**Joint Commissioner (General)**

**T.V. Kamala Bai**  
**Joint Commissioner (Law)**

**S.K. Suchala Kumar**  
**Joint Commissioner (A&I)**

To,

M/s. S. Anil Kumar, K.S. Hariharan & K. Uma Maheswar,  
Advocates,  
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