

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

*2. Dr. A. Bijikumari Amma.  
Joint Commissioner (A & I),  
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

*3. N. Thulaseedharan Pillai.  
Joint Commissioner (General),  
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

Sub :- KVAT Act, 2003 - Clarification U/s 94 - manufacturing and interstate sale of laboratory infrastructure and allied accessories - liability of works contract tax - Orders issued.

Read:- Application dtd. 22/6/2016 from M/s. Citizen Industries, Karnataka.

**ORDER No.C3/20372/16/CT DATED 06/10/2016.**

1. M/s. Citizen Industries, Karnataka has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003, seeking clarification as to whether they are liable to pay any tax/works contract tax in Kerala state as they have raised all supply bills interstate only and paid full CST @ 14.5% at the origin state.

2. The applicant is registered under Karnataka Value Added Tax and Central Sales Tax Acts and is engaged in the manufacturing and sale of Laboratory Infrastructure and allied accessories.

3. The applicant has submitted that they had received Purchase Order from HLL Lifecare Limited, Thiruvananthapuram on behalf of the Director, NIIST, Industrial Estate, Pappanamcode for planning, designing, execution and commissioning of laboratory infrastructure and allied accessories in the silver jubilee block at NIIST Campus, Thiruvananthapuram.

4. The applicant has further submitted that they had manufactured the entire material at their Bangalore factory, Karnataka and dispatched against payment of

full CST 14.5% and that for the installation and commissioning at Kerala state no material is purchased from within Kerala state.

5. The applicant has requested to clarify their liability of tax on the above work in Kerala State.

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

7. The applicant produced copies of the purchase order, agreement with M/s. HLL Lifecare Ltd. and tender. As per the terms of the agreement, it is clear that the contract involves both a contract for sale, and a contract of work and labour. Thus, it is a composite works contract. Based on the said agreement/contract, goods were manufactured by the applicant at its factory in Karnataka, and transported to Thiruvananthapuram for being used in the execution of the works contract. The goods so supplied had to be approved by the authorized engineer of NIIST before the same could be used in the execution of the works contract. Thus, the interstate movement of goods was in pursuance of, and incidental to the terms of the said agreement.

8. The Supreme Court of India in the case Union of India Vs. K.G. Khosla and Co. Ltd. (43 STC 457) had held that what is really decisive is whether the sale is one which has occasioned the movement of goods from one State to another. The questions regarding interstate sale is to be answered on the basis of section 3 of the Central Sales Tax Act. The law requires that it should be levied and collected in the State from which the movement of goods commences. The movement of goods in pursuance of the agreement is the main criteria for fixing the situs of taxation [Bharat Heavy Electricals Vs. Union of India 102 STC 382]. A sale is an interstate sale under section 3, if there is a contract of sale preceding the movement from one state to another and the movement must be the result of this covenant [Indian Oil Corporation 47 STC 5]. In Builders Association of India Case [73 STC 394], it was held that if in the process of executing a works contract, a transfer of property in the goods take place outside the State, the State would have no power to levy sales tax on such a transfer. In Larsen and Toubro Ltd. Vs. Commissioner of Commercial Taxes (2003) 132 STC 272 (AP) it was held that, if movement of goods from outside the state was occasioned by contract and Central Sales Tax is paid in the State of origin, no local taxes are leviable.

9. If there is movement of goods from one State to another in pursuance of an agreement to execute a works contract, it is an interstate sale and the State from which such movement of goods commenced is the only State authorised to levy tax on such deemed sale. The State where works contract was executed has no authority to levy tax or make law to deduct tax upon it. In the instant case, the movement of goods are from outside the State of Kerala, in pursuance of an agreement for the execution of a works contract. As such there is an interstate sale as per section 3 of the Central Sales Tax Act, 1956 and such sale has occurred at the State where the goods were situated at the time of appropriation of such goods to the contract as per section 4(2) of the Central Sales Tax Act, 1956. Tax shall be collected by the Government in the State from which the movement of goods commenced as per section 9(1) of the Central Sales Tax Act, 1956.

10. In the circumstances, and as per the copy of tender and agreement produced before this authority, the transaction involved is an interstate works contract for which the applicant is not liable to pay any tax under the KVAT Act.

The issues raised above are clarified accordingly.

**T.K. Ziavudeen  
Thulaseedharan Pillai  
Joint Commissioner (Law)  
Commissioner (General)  
O/o CCT**

**Dr. A. Bijikumari Amma  
Joint Commissioner (A&I)  
O/o CCT**

**N.  
Joint  
O/o CCT**

To

M/s. Citizen Industries,  
Survey No. 85,  
Industrial Plot No. 33A, 33 Part, 34C,  
KIADB Road, Chokkahalli Village,  
Kasba Hobli, Hoskote, Bangalore,  
Karnataka - 562 114