

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

Present:- Sri.Paul Antony.IAS

Sub:- KVAT Act-03,Clarification U/s. 94- Application filed by M/s. Bharat Cocoa & Spices, Thodupuzha-clarified orders issued- Reg:
Read: Application in Form No. 24 Dt. 22.04.05

M/s. Bharat Cocoa & Spices, Thodupuzha has sought clarification under section 94 of the KVAT Act, 03 on the following. The applicant is purchasing cocoa for the principal M/s. Cadbury India Ltd for commission in pursuance of agency agreement. It is stated that purchase tax on the entire purchase turnover is paid by the Principal. As provided in Rule 10(1)(h)(ii) when tax is paid by the principal, agent is exempted from payment of tax. In this contest clarification is sought on records to be produced for claiming exemption from payment of tax by the agent who purchases goods for the principal and where tax on the purchase turnover is paid by the principal. As per Rule 12B of KVAT (Amendment) Rule, 05 prescribed forms in 25D and 25E is prescribed to avail input tax credit by principal and agent respectively. In the circumstance, point sought for is clarified as follows:

ORDER No.C7.21492/05/CT Dt. 02.02.06

As per Rule 10(1) (h) (i) the turnover of sales or purchases made by a dealer through his agent in respect of which tax has been paid by the agent and (ii) the turnover of sales or purchases made by an agent for and on behalf of any principal in respect of which tax has been paid by the principal have to be excluded for the purpose of arriving taxable turnover. As per Rule 12B, declaration in Form 25D has to be furnished by the principal when input tax credit is claimed by the agent and declaration in form No.25E has to be furnished by the agent to the principal while claiming input tax credit/refund/special rebate by agent on behalf of principal.

Sd/
Commissioner