

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 (Audit & Inspection),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

2. Dr. A. Bijikumari Amma.

*Joint Commissioner (Law),
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 printed flex used as sign boards and name boards – Orders issued.

Read : Application from M/s. Title Graphics Private Ltd., Kochi dtd. 5/6/2015.

ORDER No.C3/21206/15/CT DATED 29/4/2016.

1. M/s. Title Graphics Private Ltd., Kochi has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification as to whether the increase in the rate of tax to 20% by introducing Entry 3B in the Table below Section 6(1)(a) of the Act as per the Kerala Finance Act, 2015 applies to sign boards and name boards.

2. The applicant is a works contractor and makes illuminated sign boards and name boards and also installs them at the premises of the awarder as per the orders received. On the sale value of sign boards, they collect VAT and on the charges for installation of sign boards, they collect Service Tax.

3. The applicant would contend that sign boards and name boards are made using poly vinyl chloride sheets. PVC sheets used for making sign boards are prepared in different modes. The required matter is printed or engraved as per the requirement of the awarder of the works. The matter is:

- I. Printed on the PVC sheets or
- II. Engraved on a combined sheet using plotter or
- III. Engraved on the top layer of a sheet using router

Signboards have the names and logos of the parties printed on it. The printed sheets are mounted on a frame made of GI bars and angles and are covered on all sides except the front by GI sheet to make it into the form of a box. An electrical wiring is installed inside the box and provision for lights are made to illuminate the sign board at nights. The printed matter used for illuminated sign boards is provided by the awarder in some cases. In some cases, the printing is got done by the applicant by units engaged in printing. The engraving is done by the applicant company, if the awarder orders for an engraved sign board. The applicant is engaged in the manufacture of sign boards and name boards only and they do not deal with banners or hoardings.

4. The applicant would contend that the words used in Entry 3B in the Table to sub-clause (a) of Section 6(1) of the Act is specific and hence will cover only the items mentioned in the Entry. 'Printed Banners and hoardings' do not include printed Sign Boards and Name Boards. No HSN code is given against Entry 3B. The applicant has referred to the Rules of Interpretation of Schedules and would contend that in common parlance, a banner means 'a flag or long strip of material displaying a slogan, advertisement etc. or a placard carried in a procession or demonstration' as per the Collins English Dictionary. Therefore Entry 3B is restricted in the case of banners to flags or other long strips made of poly vinyl chloride/polyethylene/other plastic material on which a slogan or advertisement are displayed. The applicant would also contend that in common or commercial parlance hoardings are 'large boards used for displaying advertising posters as by a road' as per the Collins English Dictionary. In respect of hoardings, the purview of Entry 3B is limited to large advertisements printed on poly vinyl chloride/ polyethylene/other plastic sheets. The applicant would also contend that 'Sign Boards and Name Boards' cannot be brought within the fold of terms 'printed banners' or 'printed hoardings' by virtue of the difference in the purposes for which they are used. A sign board is meant to be 'a board displaying a sign to direct traffic or travellers' as per Dictionary. A name board also serves the same purpose.

5. The applicant would further contend that 'Banners and hoardings' are used for advertisements or for propaganda. 'Sign Boards and name boards' are not used as a mode of marketing communication. It is normally used as an aid to a seeker. They are used to indicate the location of an entity and are normally displayed in front of or in the premises of the offices or places of business or other activity in which the entity is involved. They are

used by all types of entities and are not always used necessarily by those who carry on business.

6. The applicant has also referred to the Budget Speech, 2015 and would contend that the intention was to charge tax on disposable plastic and other items referred to therein. Sign boards are not disposable items though they may be made on flex. They are used for a considerable long time. The intention of the proposal vide the Budget is to hike tax rate on disposable flex boards and other disposable items referred to therein which are harmful to environment because of their disposal after one time use. In short, the legislators have intended to charge higher rate of tax on 'printed banners' on plastic sheets used for advertisement or campaigning or promotion of an event or increasing the popularity of a person or ideologies and which are thrown away/disposed after the event or after their use, as the case may be and also on 'large printed boards/hoardings' made of any kind of plastic sheets used purely for advertisements or for propaganda. They have never intended to charge higher tax on normal sign boards and name boards used as aids to travellers or seekers of an Office/ or any other place. The Hon. Supreme Court of India has upheld in the case of Atul Glass Industries (P) Ltd. Vs Collector of Central Excise (1986)63 STC 322 that in order to ascertain whether a product falls within a specific item in the schedule to the Central Excise Act, identity test with reference to its functional character is to be applied and the Hon'ble Court declared that the identity of an article is associated with its primary function. This principle may be extended to the case since 'sign boards and name boards' have a functional character different from banners and hoardings. The applicant would also contend that as per classification of items under the HSN system, the code for printed posters is 4911.10.10 where as the HSN code for illuminated signs and name plates is 9405.60. The classification under the HS system indicates beyond doubt that the term posters or hoardings will not cover within its purview sign boards and name boards. The legislature has intended to tax only the printed sheets of PVC or plastic used for banners or hoardings at the higher rate of 20%. It was not intended to tax the sign boards at higher rate.

7. The applicant has requested to clarify as to whether the increase in the rate of tax to 20% by introducing Entry 3B in the Table below Section 6(1)(a) of the Act as per the Kerala Finance Act, 2015 applies to sign boards and name boards.

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

9. The intention of the Legislature behind introducing Entry 3B in the Table to sub-clause (a) of Section 6(1) of the Act was to discourage the use of printed flex, which being a plastic product is hazardous to the environment. This intention is well reflected in the Budget Speech-2015. Admittedly, the applicant is into manufacturing of sign boards and name boards using PVC sheets. The underlying essence of the Entry is to discourage the use of printed PVC/polyethylene and other plastic sheets, and the said Entry was merely indicative as regards the kind of articles made using printed flex. The durability of such articles has no relevance in interpreting the ambit of the above said Entry. It is pertinent to note that in certain cases, sign boards can even double up as a means of advertisement. Regardless of the purpose they serve, the fact that they too just like banners and hoardings, are made using PVC sheets which render them liable to be taxed at the rate of 20%.

10. In the light of the above facts, it is hereby clarified that sign boards and name boards made using printed PVC/polyethylene and other plastic sheets would be exigible to VAT at the rate of 20% by virtue of Entry 3B of the Table to sub-clause (a) of Section 6(1) of the Kerala Value Added Tax Act, 2003.

The issues raised above are clarified accordingly.

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Joint Commissioner (A&I)
(General)

Dr. A. Bijikumari Amma
Joint Commissioner (Law)

V.J. Gopakumar
Deputy Commissioner

To

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