

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

2. Suchala Kumar. S.K.
Joint Commissioner (General),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.

3. C. Lalappan.
Joint Commissioner (Audit & Inspection),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.

Sub : KVAT Act, 2003 – Clarification U/s 94 – Whether a registered works contractor who has opted compounding U/s 8 is liable to pay compounded tax on pure labour contract – Orders issued.

Read :Application from Sri. Pradeep. S., M/s. Kailas Engineering Works, Thiruvananthapuram dtd. 12/8/2013.

ORDER No.C3/24232/13/CT DATED 20/11/2013.

1. Sri. Pradeep.S., M/s. Kailas Engineering Works, Thiruvananthapuram, has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003, seeking clarification as to whether a registered works contractor who has opted compounding U/s 8 of the Act is liable to pay compounded tax on pure labour contract.

2. The applicant was heard in the matter and the contentions raised were examined.

3. The Commissioner of Commercial Taxes, Kerala vide Order No. C3/3551/2008/CT dated 24.11.2008 has held that what is assessable in works contract is the transfer value of materials incorporated in the contract work. The labour element is not exigible to tax. Dealers opting for payment of tax at compounding rates are agreeing to pay tax on the whole contract receipts including labour portion.

4. The States are empowered to levy tax on goods incorporated in works contract by treating it as deemed sale through the 46th Constitutional Amendment. If there is no transfer of contractor's materials involved in the work, then such receipts will not form part of even the Total Turnover as per Rule 9(4) of Kerala Value Added Tax Rules. Compounded tax is paid in lieu of the tax

payable under Section 6. If no contractor's material is involved in the work, then there is no taxable event in the work and hence no obligation to pay tax even if the contractor opts for payment of compounded tax under Section 8. No tax under Section 8 can be levied on a work on which no tax is payable under Section 6.

The issues raised above are clarified accordingly.

T.V. Kamala Bai
Joint Commissioner (Law)

Suchala Kumar. S.K
Joint Commissioner (General)

C. Lalappan
Joint Commissioner (A&I)

To,

Sri. Pradeep.S,
M/s. Kailas Engineering Works,
Sarada Bhavan
Kochulloor, Medical College P.O.,
Thiruvananthapuram.