

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

Present:- Sri.Paul Antony.IAS

Sub:- KVAT Act 03- Clarification under section 94- Application filed by  
M/s. SNG Engineering works, Koratty- clarified orders issued- Reg:

Read: 1. Application dt. 19.08.05  
2. Hearing Notice No.VC1.44337/05 Dt. 24.10.05

**ORDER No.C7.44337/05/CT Dt. 10.02.06**

M/.s S.N.G. Engineering works, Khanna Nagar.P.O, Koratty has sought for clarification under section 94 of the KVAT Act 03 on the following.

The applicant dealer is a manufacturer of textile machinery, used to purchase electric motors from outside the state and with in the State, and such electric motors are fitted with the textile machinery and sold a comprehensive unit.

The contention of the applicant is that electric motor is an input to the finished product ie, textile machinery and requested to clarify the following points:

- a) Whether the applicant is entitled to avail input tax credit towards the purchase from the local registered dealers;
- b) Whether electric motor is capital goods as far as the applicant is concerned;
- c) Whether electric motor will come under item No. 62 of the Entry of Goods into Local Areas Act as machinery;
- d) Whether the applicant is entitled for set off towards the comprehensive unit of textile machinery which includes the fixture of electric motor, for which entry tax is paid.

The authorised representative of the applicant was heard. The point raised are clarified as under:

- a) The applicant dealer is entitled to avail input tax credit for the purchases effected from registered dealers with in the state as stipulated in section 11(1) of the KVAT Act,03
- b) Electric motor is not a capital goods at the hands of the applicant dealer, it is input for the manufacture of Textiles Machinery. Textiles Machinery is a finished product of the applicant dealer for sale.
- c) Electric motor does not fall under entry 21 (entry No. 17 in schedule) of 3rd schedule to the KVAT Act 03 as amended by KVAT (Amendment) Act 05. Electrical motor is electrical machinery having HSN code 8501 which has not been listed under any of the schedule to the KVAT Act 03. Hence it is taxable under RNR category @ 12.5% . All kinds of Machineries

are exigible to entry tax. So electric motor is an item exigible to entry tax.

- d) Entry Tax paid is eligible for set off against the tax payable under Kerala Value Added Tax Act as specified in section 12(1) (6) of KVAT Act 03, since the goods imported is for use in the manufacture of finished products for sale in the State. However, the applicant dealer need not pay entry tax on the import of electric motor. This is because; Government vide SRO 588/05 have exempted registered manufactures in the State from the payment of entry tax on the import of any goods other than timber as Raw materials for use in the manufacture of other goods in the state for sale subjected to tax either under KGST Act or CST Act.

However, points (c) and (d) on which the applicant sought for clarification can not be entertained under section 94 of the KVAT Act 03 as they relate to the Kerala Entry of Goods into Local Area Act.

Other points are clarified as above.

Sd/  
Commissioner