

27. PROCEEDINGS OF THE COMMISSIONER OF COMMERCIAL TAXES, THIRUVANANTHAPURAM

Present: Sri. P.Mara Pandiyan I.A.S

Sub: KVAT Act 2003- Clarification U/s 94- Rate of tax- old used battery scrap – Clarified order issued - reg

Read: Application put in by M/s Dhruvanshi Enterprises, Kochi
Dtd.27.07.2008.

ORDER NO. C 3 - 30259/08/CT Dtd 17.11.2008

(1) M/s Dhruvanshi Enterprises, Kochi has preferred an application under section 94 of the KVAT Act 03 seeking clarification on the rate of tax applicable to old condemned scrap battery made of lead plates and lead oxide used in car and other vehicles and in telecom industries and inverter and UPS

(2) The applicant was heard on 16.10.2008, the contentions raised were examined in detail with reference to the statutory provisions. The point to be examined is whether the old condemned scrap battery made of lead plates and lead oxide is to be classified under entry no. 43(46) of schedule 3 to the KVAT Act 2003 taxable @ 4%.

(3) As per Customs Tariff Act 1975, in chapter 85, the description for four digit HSN 8548 is read as “ *waste and scrap of primary cells, primary batteries and electric accumulators; spent primary cells, spent primary batteries and spent electric accumulators; electrical parts of machinery or apparatus, not specified or included elsewhere in this chapter*”

(4) The four digit HSN 8548 is specifically mentioned in Customs Tariff Act 1975 and hence the item in question is specifically excluded from HSN 7802 mentioned under entry no. 43 (46) of schedule 3 to the KVAT Act 2003.

(5) The four digit HSN code 8548 has not been specifically mentioned in any where in any of the schedules to KVAT Act'03. Hence, old condemned scrap battery made of lead plates and lead oxide will rightly fall under 12.5% category by virtue of entry 103 of SRO 82/2006.

The point raised is clarified accordingly.

Commissioner .