

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

2. P.S. Soman.
Joint Commissioner (Law),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.

3. V.J. Gopa Kumar.
Deputy Commissioner (General),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.

Sub : KVAT Act, 2003 - Clarification U/s. 94 - Whether concessional rate of tax of half percent can be applied for supplies of furnace oil, diesel oil and lubricants to the vessels Sagar Sampada & Sagar Kanya of Shipping Corporation of India - Orders issued.

Read : 1. Application from M/s. Indian Oil Corporation Ltd., Kerala State Office, Kochi dtd. 21/1/2014.
2. Letter from Sri. A. Balakrishnan, Senior Manager (Finance), Kerala State Office, M/s. Indian Oil Corporation Ltd. Dtd. Nil

ORDER No.C3/2940/14/CT DATED 13/8/2014.

1. M/s. Indian Oil Corporation Limited, Kerala State Office, Kochi has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification as to whether the concessional rate of tax of half percent can be applied for supplies of furnace oil, diesel oil and lubricants to the vessels Sagar Sampada & Sagar Kanya of Shipping Corporation of India.

2. The applicant has referred proviso 6 of Section 6(1) of Kerala Value Added Tax Act which reads:

Provided also that in respect of sale of fuel and lubricants to foreign-going vessels, other than fishing vessels, the tax payable under clause (a) or (d) above shall, subject to conditions and restrictions as may be prescribed, be half per cent:

The applicant has also referred S.R.O. No. 759/2011, wherein the Government reduced the tax rate on the sale of high flash high speed diesel oil to foreign going vessels, other than fishing vessels, for use as bunker fuel, to half percent. The applicant placing reliance on the D.O. F. No. 445/3/88-CUS.IV of Central Board of

Excise & Customs dated 30/5/1988 addressed to the Director of Department of Ocean Development would contend that the vessels Sagar Sampada and Sagar Kanya have been notified by the Government as foreign going vessels for the purposes of permitting duty free supply of diesel oil and lubricating oil.

3. The applicant has requested to clarify whether the concessional rate of tax can be applied for supplies of furnace oil, diesel oil and lubricants to the said vessels.

4. The authorised representative of the applicant, Sri. A. Balakrishnan, Senior Manager (Finance), Kerala State Office, M/s. Indian Oil Corporation Limited vide his letter read as paper 2 above has informed that they do not seek any personal hearing and has requested to clarify the issue on the basis of their application.

5. The contentions raised in the matter were examined.

6. The contention that Sagar Kanya and Sagar Sampada are solely engaged in research work and in survey of living resources in the high seas outside the territorial waters of India and the Government have agreed to consider both these vessels as 'foreign going vessels', though may be given under the Customs Act, 1962 cannot be extended to the Kerala Value Added Tax Act, 2003, since the vessels do not have any foreign destination, and as such, the concessional rate of tax cannot be granted for supplies of furnace oil, diesel oil and lubricants to the vessels Sagar Sampada and Sagar Kanya of Shipping Corporation of India.

The issues raised above are clarified accordingly.

C. Lalappan
Joint Commissioner (A&I)

P.S. Soman
Joint Commissioner (Law)

V.J. Gopa Kumar
Deputy Commissioner (General)

To

Sri. A. Balakrishnan
Senior Manager (Finance),
Indian Oil Corporation Limited, Kerala State Office,
Panampilli Nagar, Kochi – 36.