

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

PRESENT: P. MARA PANDIYAN, I.A.S.

Sub:- Clarification U/s.94 of the KVAT Act- Works contract Tax-
orders issued- Reg:

Read:- Request of M/s. Furnace Fabrica (India) Ltd, Edappally.

ORDER No. C3.4153/08/CT Dated.08.01.2009

(1) M/s. Furnace Fabrica (India) Ltd, Edappally, Ernakulam has preferred an application U/s. 94 of the KVAT Act on the following points;

- (i) If the applicant has not opted for compounding U/s. 8 of the KVAT Act, will it be liable to tax under the Act for the amounts covered by the sub-contract:
 - (a) where the sub-contractors have opted for compounding U/s.8
 - (b) where the subcontractors pay tax U/s. 6(1)(f).
- (ii) will the position be different if some of the sub contractor opt for compounding and the others pay tax U/s. 6(1) (f)
- (iii) what will be the position if the applicant opts for compounding
- (iv) If the applicant sells some of the goods to be appropriated to the works contracts directly to the awarders U/s. 3(b) of the CST Act and the awarder supplies such goods free of cost to the applicant and the value of the goods is not included in the contract amount, what will be the liability of the applicant U/s.6(8) of the Act as the case may be,

(2) The authorised representative of the applicant was heard and contentions were examined. On the basis of budget speech 2008, Rule amendment is proposed whereby if the sub contractor is a registered dealer under KVAT Act and furnishes form 20 H to the contractor, then such turnover can be deducted from the principal contractor's turnover irrespective of the fact that whether the sub contractor is a compounded dealer or a regular tax payer.

(3) Point No. 4 is a hypothetical question and can be clarified only on production of the concerned purchase or work order. If on the basis of a pre-determined contract movement of goods had taken place from outside the state and the awarder issues "C" form for the same and the value of it is not included again in the composite work order then it will not become part of the turnover of the contractor. If the work order is one of a composite nature and such supply contract is not clearly discernable then he will not be eligible for payment of tax U/s.8 (f).

The point sought for is clarified accordingly.

Commissioner.