

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

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

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

Sub : KVAT Act, 2003 - Clarification U/s. 94 - Tax liability on purchase and sale of used and new Excavators - Orders issued.

Read : Application from M/s. Shrivenkatesha Heavy Equipments, Kochi dtd. 21/10/2013.

ORDER No.C3/31587/13/CT DATED 5/4/2014.

1. M/s. Shrivenkatesha Heavy Equipments, Kochi is the authorised dealer for Hyundai Excavators in Kerala borne on the rolls of Office of the Commercial Tax Officer, First Circle, Thripunithura. The applicant receives buy-back requests from the parties when the applicant sell their new Hyundai Excavators. The applicant has requested to clarify the following points:

i. What are the procedures and documentation part for purchasing a used item (old excavator / back hoe loader) from a party and what will be the tax liability.

ii. What is the procedure for subsequent sale of old excavator on as is where is condition to a third party and rate of VAT applicable.

iii. What is the procedure for subsequent sale of old excavator after repairs to a third party and rate of VAT applicable.

2. Sri. A. Nagarajan, General Manager, M/s. Shrivenkatesha Heavy Equipments, was heard in the matter and the contentions raised were examined.

3. Excavators fall under the HSN Code 8429, classified under the Customs Tariff Act Chapter 'Machinery'. The said HSN Code does not appear in any of the Schedules to the Kerala Value Added Tax Act, 2003. None of the entries in any of the Schedules is suitable for incorporating this commodity. As such the commodity excavator, whether new or used, would fall under Entry 15 of S.R.O. No. 82/2006. Accordingly the tax liability of a dealer, dealing in this item would be determined as per Section 6 (1)(d) of the Kerala Value Added Tax Act, 2003.

The issues raised above are clarified accordingly.

Suchala Kumar. S.K
Joint Commissioner (General)

C. Lalappan
Joint Commissioner (A&I)

P.S. Soman
Joint Commissioner (Law)

To,

Sri. A. Nagarajan,
General Manager,
M/s. Shrivenkatesha Heavy Equipments,
T.C. 5/2568, Thushara, Pippinmoodu,
Sasthamangalam P.O,
Thiruvananthapuram – 695 010.