

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

Present: Sri.Paul Antony.IAS

Sub:- KVAT Act-03-Clarification U/s.94- Application filed by M/s.
TATA Tea Ltd- Cochin- clarified orders issued- Reg:

Read:-1. Application in Form No. 24 DT 08.06.05
2.Hearing Notice No.VC1.34720/03 Dt. 26.07.05

ORDER NO.C7.34720/05/CT Dt. 21.03.06

M/s. TATA Tea Ltd, Willington Island, Cochin 3, has filed an application for clarification u/s. 94 of Kerala VAT Act 03 on the following.

The applicant dealer is a manufacturer and exporter of instant tea. The company purchases furnace oil for use in manufacture of instant tea in their factories in Kerala and also the company exports instant tea. The company is therefore, entitled for a refund of tax paid on purchase of Raw materials; the company also has local sales of their products, which are manufactured locally using tax paid materials. The company is therefore entitled for set off of input tax credit against the output tax on such sales.

Hence the company requested to clarify the following points.

1. Since the furnace oil purchased is used as fuel in the manufacturing process, whether the applicant would be entitled to input tax credit on the tax paid on such purchases.
2. Whether the input tax credit which ought to be refunded to the applicant to the extent of export of instant tea could be adjusted against the out put tax of the company.
3. What is the rate of tax on tea waste, which is used as a raw material in the manufacture of instant tea.

The authorised representative of the applicant was heard, and the contentions of the applicant were analysed.

The point sought for is clarified as follows:

1. Input tax credit is available for fuel used for manufacturing.
2. As per Rule 47(5), where a dealer eligible for refund under this rule is liable to pay any tax or other amount under the Act or where he is found to be in arrears of tax or other amount under the KGST, CST, KTEGLA Act, the assessing authority shall adjust the amount to be refunded towards tax or other amount due from the dealer under any of the said enactments and the balance remaining after making such amendments shall be refunded to the dealer.
3. Other green tea (not fermented) including green tea waste and other black tea (fermented) and the partly fermented tea including tea bags and black tea waste are taxable @ 4 % vide entry 128 (2) and 128(7) of 3rd schedule to KVAT Act 03 as amendment by KVAT (Amendment Act) 05.

Sd/
Commissioner