

**34. PROCEEDINGS OF THE COMMISSION OF COMMERCIAL TAXES
THIRUVANANTHAPURAM**

Present:- Sri.Paul Antony.IAS

Sub:- KVAT Act 2003- Clarification – section 94- Rate of tax- Ragitone- Orders issued- Reg:

Read:- Application put in by Sri.K.P. Gopinath, Jeevans House, Kothamangalam.

ORDER No.C3.12287/07/CT Dt.25.05.2007

Sri.K.P.Gopinath, Jeevans House, Kothamangalam has preferred an application under section. 94 of KVAT Act 2003 seeking clarification on the rate of tax applicable to 'Ragitone', sold under a brand name which is not registered under the Trade Marks Act, 1999.

The authorized representative of the applicant was heard. The contentions put forth were examined in detail with reference to the statutory provisions.

The applicant contended that "Ragitone" is only a mixture of three ingredients, viz Ragi cardamom and Muthunga and so classifiable under entry 86 of third schedule to KVAT Act, which reads as "mixture of cereals, pulses, spices in raw form roasted or powdered sold under brand name other than those registered under the Trade Marks Act 1999."

In the case of a similar product, "Ragivita", which is a combination of Ragi, Red raw rice flour, cocoa and cardamom, the Hon'ble High Court in OT Appeal No 10 of 2006 dated 16-1-2007 had upheld the findings of Commissioner of Commercial Taxes with regard to rate of tax, and entered into a conclusive finding that it would fall under the entry 103 of SRO 82/06 and would fetch 12.5% tax rate.

Both the products mentioned above are manufactured by "Jeevans". Going by the product profile "Ragivita" is mentioned as "an ideal natural medicated solid food for Bonnie Babies", manufactured from the milk extracted from germinated Ragi mixed with liquid extracts of cardamom and muthanga of Ayurvedic herbs and is profiled as a highly vitaminised child food.

By virtue of item 23 of clause (VI) of Rules of Interpretation Ragitone cannot be classifiable under entry 36 Of 3rd schedule This cannot either be classifiable under entry 86 of schedule III to KVAT Act which deals with mixture of cereals, pulses etc..

In the case of “Ragivita” referred ibid, the Hon’ble High Court held that being not flour only, but a preparation of Ragi, red raw rice flour, cocoa and cardamom the commodity cannot fall under entry 86 of 3rd schedule, but is exigible to tax U/s. 6(i)(d) read with the residual entry 103 of SRO 82/06.

Going by the product profile it is seen that in content, structure and use, both the commodities are almost in the same line and so the tax formulation entered into by High Court in the case of “Ragivitta: is squarely applicable in the case of “Ragitone” also..

So the product “Ragitone” is classifiable under entry 103 of SRO 82/06 taxable @ 12.5%.

The Point sought for is clarified accordingly.

Commissioner.