

4. PROCEEDINGS OF THE COMMISSIONER OF COMMERCIAL TAXES
THIRUVANANTHAPURAM
Present:- Paul Antony. IAS

Sub:- KVAT Act 2003- Clarification U/s. 94- Applicability of VAT on High Sea Sales- Reg:

Read:- Application put in by All Kerala PVC Pipe Manufacturers Association.

ORDER No.C3.17240/07/CT Dt. 07.01.08

The All Kerala PVC Pipe Manufacturers Association has preferred an application U/s. 94 of KVAT Act seeking clarification on the applicability of VAT on High Sea Sales.

The applicant was given an opportunity of being heard and contentions raised were examined in detail.

The point sought for is the applicability of VAT on High Sea Sales.

High Sea Sales is a sale carried out by the carrier document consignee to another buyer while the goods are yet on high seas or after their despatch from the port and before their arrival at the port of destination. This is accepted in the Import Trade Contract Regulation of EXIM policy.

In the case of High Seas Sales, a contract or agreement should be signed after despatch of goods from the origin and prior to the arrival at destination. On concluding the High Sea Sales agreement bill of lading should be endorsed in favour of the new buyer subject to fulfillment of requirement under Customs Regulation.

In this case the High Seas buyer should be an import license holder. In view of the fact that the title of the goods transfers to the high seas buyer prior to the entry of goods in territorial jurisdiction of India, the delivery and payment of import duties are on account of the high seas buyer.

Since High Seas Sales is considered as a sale carried out outside the territorial jurisdiction of India, no tax under Domestic Tariff Area can be levied on the said sale. The condition precedent to such exemption would be the compliance of the provisions of Customs Act.

Therefore the provisions of KVAT Act are not applicable to High Sea Sales carried out in strict compliance with the procedures under Customs Act and EXIM Policy.

The point sought for is clarified accordingly.

Commissioner