

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

**Present : SUMAN BILLA, I.A.S.**

Sub :- KGST Act, 1963 - Clarification U/s 59A - Applicability of S.R.O. No. 325/2003 - Orders issued.

Read :- 1. Letter from Sri. V. Surendran, Advocate, Thiruvananthapuram dtd. 3/10/2009.  
2. This Office letter of even No. dtd. 11/12/2009 to Government.  
3. Government letter No. 11315/B3/2009/TD dtd. 12/1/2012.

**ORDER No. C3/40870/09/CT DATED 29/2/2012.**

1. M/s. Kerala State Beverages (Manufacturing & Marketing) Corporation Ltd., Thiruvananthapuram vide letter read as 1<sup>st</sup> paper above has preferred a representation seeking clarification under the Kerala General Sales Tax Act, 1963, through its authorised representative, Sri. V. Surendran, Advocate, Thiruvananthapuram, on the applicability of S.R.O. No. 325/2003. M/s. Kerala State Beverages (Manufacturing & Marketing) Corporation Ltd., Thiruvananthapuram has informed that in the above said notification 'Government have decided to exempt the Kerala State Beverages Corporation from payment of surcharge on the sales tax payable by them for six months from 1<sup>st</sup> October 2002, so as to set off the loss sustained by the Corporation.' They have further submitted that the assessing authority concerned has issued a notice proposing to levy surcharge on a part of the turnover, claiming that the above mentioned notification is restrictive in nature as for its application. The gist of the contention raised by applicant is as follows:

*"The Assistant Commissioner failed to appreciate the legal significance of shift of levy of tax on foreign liquor from 'first point of sale in the State' to 'sale by KSBC'. The visualization of the Corporation by the Assistant Commissioner as (i) KSBC (FL9 Licensee) and (ii) KSBC (FL1 Licensee) are illegal as there is no dual personality in existence. In doing so the Assistant Commissioner is going beyond the legal frame work set by Section 2 (xvi-a) of the Act 1963."*

2. M/s. Kerala State Beverages (Manufacturing & Marketing) Corporation Ltd., Thiruvananthapuram has requested to issue a clarification as to the meaning of the notification and as to its applicability.

3. The Commercial Taxes Department vide letter read as 2<sup>nd</sup> paper above requested the Government to issue a clarification on the matter. The Government vide letter read as 3<sup>rd</sup> paper above has informed that the *exemption / reduction from payment of surcharge is available only to FL9 licensee and not other licensees.*

4. In view of the facts cited supra it is clarified that the exemption from payment of surcharge granted as per S.R.O. No. 325/2003 is available only to FL9 licensee and not to other licensees.

The issue raised above is clarified accordingly.

**COMMISSIONER**

To,

Sri. V. Surendran,  
Advocate,  
Advocates & Tax Consultants,  
TC 25/3233 (4), First floor - Crescent Towers,  
East of Old Collectorate, Vanchiyoor P.O.,  
Thiruvananthapuram - 695 035.