

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

PRESENT: SRI.PAUL ANTONY. I.A.S.

Sub:- KVAT Act 03- Clarification U/s 94- Application filed by M/s. Reckitt Benckiser (I) Pvt. Ltd. Kochi- Clarified orders issued- Reg:  
Read:- 1. Application in Form No. 24 dt. 29.08.05  
2.Hearing Notice No.C7.43712/05/CT Dt. 6.02.06

ORDER No. C7.43712/05/CT DT. 07.04.06

M/s. Reckitt Benckiser (Ind) Ltd, Edapally Kochi has sought for clarification under section 94 of the KVAT Act 03.

Authorised representative of the applicant was heard. The basic contention of the applicant is that their products mosquito coil, mat and liquid vaporiser, Harpic and Lizol disinfectant etc are insecticides and are even produced under licence from the Central Insecticides Board and can not fall under any other entry other than entry No. 44 (5) of the 3<sup>rd</sup> schedule. Similarly Dettol Antiseptic will fall under entry 36(8)(h)(vi) of the 3<sup>rd</sup> schedule.

The contentions of the applicant were examined in detail with reference to the statutory provisions of the Act.

The contention of the applicant is that being insecticides licence under Insecticides Act, the items mosquito coil, mat, vaporiser, mortien insect killer, mortein cockroach killer etc are insecticides covered under entry 44 of the 3<sup>rd</sup> schedule. Mosquito repellants, electric- electronic mosquito repellants, gadgets and insect repellants, devices and parts there of are taxable @ 12.5 % under Sl.No. 66 of Residuary List of items published as per SRO 82/06 with HSN 8516.79.20. Entry 44 of 3<sup>rd</sup> schedule generally speaks on fertilizers, pesticides, weedicides, insecticides, fungicides etc, where as Sl.No. 66 of SRO 82/06 speak specifically on mosquito repellants.

Further, the claim of the applicant is that the item mosquito coil, mat vaporiser and liquid vaporiser will fall under the heading 3808.10.37 of the Central Excise Tariff Act, but the heading 3808.10.37 deals with synthetic pyrethrum and the products mentioned above are not synthetic pyrethrum and hence will not fall under the heading 3808.10.37

The Hon'ble Supreme Court of India, in Sonic Electrochem and Another Vs STO reported in (1998) 6 KTR 565 SC had held that the product Jet mat" which is the trade name containing d- Allethrin- 4 % and is commercially known as "Mosquito repellant mat" in our

considered opinion is a mosquito repellent notwithstanding the fact that it not only repels mosquito, but also capable of killing mosquitoes. It is difficult to hold that it is an insecticide entitled for partial exemption under entry 98 of the Act” from the above judgment it can be seen that mosquito repellents whether coil, mat, or electrically operated vaporiser, gadgets etc do not fall under entry 44 of 3<sup>rd</sup> schedule to KVAT Act 03, as amended by KVAT (Amendment) Act 05. Hence it is clarified that mortein mosquito coil, mat liquid and electrically operated vaporisers, gadgets etc taxable @ 12.5 %.

As regards mortein insect killer, the HSN Code furnished by the applicant is 3808.10.37 and as mentioned above, HSN 3808.10.37 describes synthetic pyrethrum only and mortein insect killer is not a synthetic pyrethrum and hence will not fall under the said heading. Actually mortien insect killer is not specifically mentioned in any of the schedule to KVAT Act 03, as amended by KVAT (Amendment) Act 05. Hence it is clarified that mortein insect killer will fall under entry 103 of SRO 82/06 taxable @ 12.5 %.

As argued by the applicant, Rat kill cake is a rodenticide and hence will fall under entry 44(5) of the 3<sup>rd</sup> schedule to KVAT Act 03 as amended by KVAT (Amendment) Act 05 and taxable @4 %.

Harpic is used for lavatory cleaning and Lizol for floor cleaning. It may be true that it kills germs. But all kinds of cleaning powders and liquids including floor and toilet cleaning have been notified as taxable @ 12.5% vide Sl.No. 27(4) of SRO 82/06. Hence Harpic toilet cleaner and Lizol disinfectant floor cleaner will fall under Sl.No. 27(4) above and are taxable @ 12.5%.

Dettol antiseptic liquid is not prescribed as a medicine for curing disease, but used for cleaning purpose, Medicaments for the therapeutic or prophylactic uses alone are specified under entry 36(8) of the 3<sup>rd</sup> schedule. As Dettol is not used for therapeutic or prophylactic system, it will not come under entry 36(8) of 3<sup>rd</sup> schedule to KVAT Act and it is taxable @ 12.5%.

The point sought for is clarified as above.

Sd/

Commissioner.