

PROCEEDINGS OF THE COMMISSIONER OF COMMERCIAL TAXES, KERALA
THIRUVANANTHAPURAM.

PRESENT : RABINDRAKUMAR AGARWAL, I.A.S.

Sub :- KVAT Act, 2003 - Clarification U/s 94 - Rate of tax of dressed, bleached and worked hair which is not sold as such but which is fixed to a base and used in hair fixing - Orders issued.

Read :- 1. Application from M/s. Gulf Gate Hair Fixing Private Ltd., Kozhikode dtd. 15/12/2010.
2. This Office notice of even No. dtd. 27/7/2011.
3. Letter from the applicant dtd. Nil.
4. This Office notice of even No. dtd. 25/6/2012.

ORDER No.C3/41336/10/CT DATED 19/10/2012.

1. M/s. Gulf Gate Hair Fixing Private Ltd., Kozhikode has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax of dressed, bleached and worked hair which is not sold as such but which is fixed to a base and is used in hair fixing.

2. The applicant is engaged in the business of hair fixing, the process wherein human hair is fixed to human head where there is no hair growth and fixing is done by using clinical clips. For this purpose, human hair is cleaned, fixed to a base and then it is fixed to the portion of the head where there is no hair growth, by using clinical clips.

3. The applicant would contend that the above said process is not a covering to the head as in the case of wig. The applicant has also referred the dictionary meanings of the word 'wig' and would contend that wig is an article for wearing on the head either to hide baldness or as uniform as judges' white wig. But hair fixing is not an article by itself to wear on the head but fixing is done with natural hair using clinical clips on the portion of head where there is no hair growth and this is done by experts. Therefore hair fixing is not sale of wig.

4. The applicant would further contend that Entry 60(1)(c) of the Third Schedule to the Kerala Value Added Tax Act, 2003 aptly applies to the hair fixed by the applicant and the said entry reads:

60	<i>Human hair</i>	
(1)	<i>Human Hair</i>	
	(a) <i>Unworked</i>	0501.00.10
	(b) <i>Waste</i>	0501.00.20
	(c) <i>dressed, thinned, bleached or otherwise worked</i>	6703.00.10

5. The applicant has also contended that hair fixing done by the applicant is not a sale of the readymade item wig and hence it should be classified under entry 60(1)(c) of the Third Schedule. The applicant has requested to clarify the rate of tax of the commodity.

6. The authorised representative of the applicant was heard on 2/8/2011. Subsequent to the hearing, the applicant vide letter read as 3rd paper above has submitted copies of the purchase bills & import clearing details relating to hair pieces. The HSN Code as per the said Bill of Entry for Home Consumption is **0501.00.10** and the description therein reads **Hair Pieces**.

7. Subsequent to the re-constitution of the Authority for Clarification, the applicant was once again heard on 28/6/2012. However, since the members of the Authority for Clarification could not arrive at a unanimous decision, the matter has been referred to the Commissioner as envisaged in Section 94 (6) of the Kerala Value Added Tax, 2003.

8. The contentions raised by the applicant in the matter were examined.

9. The applicant is importing hair pieces and according to the relevant Bill of Entry for Home Consumption, it is classified under the HSN 0501.00.10. The pieces so purchased are used by the petitioner for hair fixing on the head of the customer according to their specific requirements. Undisputedly, the applicant is not effecting the sale of hair pieces as such. Instead, they put their skill and labour on these hair pieces, fix it onto a base and then fix it on bald headed people using clinical clips according to the customer's specific requirements. Fixing is done after taking the measurement of baldness in each case.

10. As per Chambers 21st Century Dictionary the word '**wig**' means '**an artificial covering of natural or synthetic hair for the head to conceal baldness**'. In the larger context, it can be seen that hair fixing is meant to cover baldness and after the process of hair fixing it serves the very purpose of a wig. Further, for the purpose of qualifying an article to be a wig, it does not necessarily need to cover the entire head. An artificial covering of hair to cover a portion of the head can also be considered as wig.

11. Entry 102 of S.R.O. No. 82/2006 reads as follows:

102	Wigs	
	<i>(a) of synthetic textile materials</i>	6704.11.00
	<i>(b) of human hair</i>	6704.20.10

12. In view of the facts cited supra it can safely be concluded that the product intends to serve the purpose of covering baldness as is the purpose of a wig. Moreover Entry 60 of the Third Schedule to the Act describes human hair. But in the impugned case, human hair as such is not the product but a raw material to arrive at a hair fixing product depending upon an individual's baldness. So the applicant's claim that their product will come under Entry 60

of the Third Schedule is not in order. Hence, it is clarified that dressed, bleached and worked hair which is not sold as such but which is fixed onto a base and is used in hair fixing to cover baldness as per the specific requirements of the customer, which serves the purpose of a wig would be taxable at the rate of 13.5% by virtue of Entry 102(b) of S.R.O. No. 82/2006.

The issues raised above are clarified accordingly.

COMMISSIONER

To,

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