

**42. PROCEEDINGS OF THE COMMISSIONER OF COMMERCIAL TAXES
THIRUVANANTHAPURAM**

Present:- Paul Antony. IAS

Sub:- KVAT Act 03- Clarification U/s. 94 – Rate of tax on “All out” mosquito repellants-
Clarified orders issued- Reg:

Read:-1. Application in form no. 24 Dt. 17.03.06 from M/s. Karamchand Appliances (P)
Ltd,Kochi 18.

2.This office hearing Notice No.C7.13216/06/CT Dt. 03.05.06

ORDER No.C7.13216/06/CT Dt. 23.05.06

M/s. Karamchand Appliances (P) LTd, Kochi 18 has sought for clarification under section 94 of KVAT Act 03 on the rate of tax applicable to “All Out” under VAT.

The applicant dealers are the manufacturers of “All Out” mosquito destroyer. The contention of the applicant is that “All out” is a mosquito repellent and capable of repelling and killing mosquitoes. The product consists of liquid in plastic container and a dispenser to connect to electric. The dispenser is the facilitator to vaporize the liquid in the bottle, and this vapour repels and kills mosquitoes and thus mosquito repellent is an item included in HSN 3808 vide entry no. 44(5) of 3rd schedule and being mosquito repellent, “All out” must have included in the same entry and taxable @ 4 %.

The authorised representative of the applicant was heard. The contention of the applicant has been examined in detail. Entry 44 of 3rd schedule to KVAT Act 03, as amended by KVAT (Amendment) Act 05, generally speaks of fertilizers, pesticides, weedicides, insecticides fungicides etc. Where as Sl.No. 66 of the residuary list of 12.5 % items published as SRO 82/06 speaks specifically of mosquito repellents, electric or electronic mosquito repellents, gadgets and insect repellents, devices and parts there of with HSN 8516.79.20 when there is a specific inclusion in the residuary list, it can not be put in a general category like Sl.No. 44 of 3rd schedule.

Further, the Hon’ble Supreme Court of India in Sonic Electrochem and another Vs STO reported in (1998) 6 KTR 565 ZSC had held that the product “Jet mat” which is the trade name containing at Allethrin 4 % and is commercially known as “mosquito repellent 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, vaporizer, gadgets etc do not fall under entry 44 of 3rd schedule to KVAT Act 03, as amended by KVAT (Amendment) Act 05.

Hence it is clarified that the product “All out” mosquito destroyer. Manufactured by the applicant is taxable @ 12.5 % as per Sl.No. 66 of SRO 82/06.

Sd/

Commissioner