

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

Present: Sri.P. Mara Pandiyan, I.A.S

Sub:- KVAT Act'03 - Clarification U/s 94 – Rate of tax of imported
PVC Profile Panel – Clarification orders issued – Reg.

Ref:- 1. Application in Form 24 put in by M/s.Thomson Impex,
Cochin, Dated. 17.03.2008

2. Notice no.C3/11930/2008/CT Dated.25.04.2008

ORDER No.C3-11930/08 dated 09.12.2008

1. M/s Thomson Impex ,Anna Maria Complex, P.T. Usha Road ,
Cochin has preferred an application seeking clarification on the rate of
tax of imported PVC Profile Panel on the following;

The applicant is importing PVC profile sheets from china for
using in partitions, false ceiling, paneling etc. While
importing from china, in the entry bill, their product is
classified under HSN 3920.49.00 by Customs Authorities.
It's further contented that, in list A of the 3rd schedule to
KVAT Act 2003, products coming under the four digit HSN
3920 is taxable @ 4%. And also in Customs tariff act in
Chapter 39, the HSN 3920 is pertaining to items other
plates, sheets, film, foil, and strip of plastic, non cellular and
non reinforced, laminated, supported or similarly combined
with other material. The applicants have also produced the
invoice, bill of landing, bill of entry and two samples of the
product for physical verification.

2. The contentions put forth were examined in details with relevant
statutory provisions. And also the sample of the product in question was
physically examined. Entry No.60 of the list A to the Third Schedule
(industrial inputs and packing materials) to the KAVT Act, 2003 read as;
***flexible plain films, plates, sheets, foil and strip of plastics non –
cellular and not – reinforced, laminated, supported or similarly
combined with other materials (Polyethylene, propylene, PVC)*** and
bears the HSN Code 3920. In chapter 39 of Customs Tariff Act (plastics
and articles thereof), entry relates to HSN 3920 is read as; ***other plates,
sheets, film, foil, tape, strip and other flat shapes, of plastics, non-
cellular and not reinforced, laminated, supported or similarly
combined with other materials.*** Thus entry 60 to list A of the Third

Schedule has excluded rigid articles from HSN 3920 for the purpose of the said entry.

3. On examination of the 2 samples of the product in question, presented by the applicant, its found that, the said PVC Profile Panel is having thickness of 14mm and 4mm respectively and it can even be used as a substitute of wooden frames. As the nature of the product is rigid, not at all flexible, by no means the product qualify to include in the List A of the schedule 3 to the KVAT Act.. The applicant has also admitted that the product is used for making partitions in the building and for making false ceiling. Hence it's by no means the product merits to be consider as an industrial input or packing material

4. In light of the above, its clear that, Rigid plates , plain films, sheets and strips of the kind which are included in the HSN 3920 is specifically excluded from entry 60 of the List A of the 3 rd schedule to KVAT Act, 2003. Hence the imported PVC Profile sheets dealt by the applicant will attract tax @ 12.5% by virtue of entry 103 of SRO 83/2006.

Issue raised is clarified accordingly.

COMMISSIONER