

**DEPARTMENT OF COMMERCIAL TAXES, KERALA  
PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION  
U/S.94 OF THE KERALA VALUE ADDED TAX ACT, 2003.**

Members present are:

1. R. Rajasekharan Nair, Deputy Commissioner (Intelligence), O/o. DC (Int.), Tvpm.  
[Formerly Deputy Commissioner (Audit & Inspection), O/o.CCT, Tvpm]
2. A. Biji Kumari Amma, Deputy Commissioner (Legal Wing), O/o.CCT, Tvpm.
3. A. Asok Kumar, Deputy Commissioner (Internal Audit), O/o.CCT, Tvpm.

Sub: KVAT Act, 2003 – Clarification U/s 94 – Whether the Compounding Rate of Tax on Sale of Medicine on MRP is Optional or not – Orders Issued.

- Read: 1. Application from M/s Madhav Enterprises, Ernakulam dated 14/9/2009.  
2. Application from M/s Madhav Enterprises, Ernakulam dated 14/9/2009.

**ORDER No.C3/46559/09/CT DATED 31/3/2010.**

1. M/s. Madhav Enterprises, Ernakulam has preferred applications U/s 94 of the Kerala Value Added Tax Act, 2003, seeking clarification on whether the compounding rate of tax on sale of medicine on MRP is optional or not. Since the issues raised by the applicant vide paper 1<sup>st</sup> and 2<sup>nd</sup> read above are similar, the Authority for Clarification has decided to consider and combine the issues together and pass a **common order** as under:-

**I. File No. C3/46559/09/CT**

2. The applicant is a dealer in medicines and is registered on the rolls of Office of Assistant Commissioner (Special Circle III), Ernakulam. For the assessment year 2008-09, the applicant had filed returns U/s 6 of the Act and paid taxes accordingly. The assessing authority has issued a notice rejecting the returns and had requested to pay tax on MRP. The applicant has not opted for compounding U/s 8 of the Act and is paying tax U/s 6 of the Act. Dealers purchasing goods from the applicant are also paying taxes U/s 6 of the Act.

**II. File No.C3/38379/09/CT**

3. For the assessment year 2009-10, the applicant has filed monthly returns for April, May, June and July, 2009 U/s 6 of the Act and paid taxes accordingly. The assessing authority has issued a notice rejecting the returns and had requested to pay tax on MRP. The applicant has not opted for compounding U/s 8 of the Act and is

paying tax U/s 6 of the Act. Dealers purchasing goods from the applicant are also paying taxes U/s 6 of the Act.

4. The applicant contends that Section 8 is an optional provision and since they have not opted for the compounded rate, the applicant has requested to clarify the following points:

a. Whether it is mandatory to pay taxes on sale of all medicines on MRP as provided in Section 8 of the Act?

b. Since Section 8 is an optional provision can't the applicant pay tax U/s 6 of the Act?

5. The authorised representative of the applicant was heard and the contentions raised were examined.

6. Payment of tax U/s 8(e) is an option to be exercised by the dealer. If he does not choose to opt so, he has to pay tax under Section 6 of the Kerala Value Added Tax Act, 2003.

The issues raised above are clarified accordingly.

**R. Rajasekharan Nair**  
DC (Int), Tvpm  
O/o DC(I), Tvpm  
(Formerly DC(A&I),Tvpm)

**A. Biji Kumari Amma**  
DC (LW)  
O/o CCT

**A. Asok Kumar**  
DC (IA)  
O/o CCT

To,

Sri. Anil D. Nair,  
M/s Anil D. Nair & Nivedita A. Kamath,  
Advocates,  
39/2655, 2<sup>nd</sup> Floor, Panthiyil Towers,  
Warriam Road, Kochi – 682 016.