

46. PROCEEDINGS OF THE COMMISSIONER OF COMMERCIAL TAXES  
THIRUVANANTHAPURAM  
Present:- Paul Antony.IAS

Sub:- KVAT Act 03- Clarification U/s. 94- whether the input tax on purchases made from registered VAT dealers against tax invoice is available for set off against output tax or for refund when the goods so purchased are sold to units located in SEZs- orders issued -Reg:

Read:-1. Application dt. 03.06.07 of M.s Maya Pradeep, Proprietor,  
Chancellor Trade Link, Ponkunnam  
2.Judgment dt. 27.07.07 in WP(C) No. 23005 of 2007

ORDER No. C3. 31297/07/CT DT. 15..09..07

M.s Maya Pradeep, Proprietor, Chancellor Trade Link, Ponkunnam has preferred an application U/s. 94 of KVAT Act seeking clarification as to whether the input tax on purchase made from registered VAT dealers against tax invoice is available for set off against output tax or for refund when the goods so purchased are sold to units located in the special Economic Zones in the State availing exemption U/s 6(7) of KVAT Act.

The applicant was give an opportunity of being heard and the issue raised were examined.

Eventhough the application is not entertainable U/s.94, since the issue raised is outside the purview of the said section, in view of the orders of Hon'ble High Court read as 2<sup>nd</sup> paper above the question has been examined on merit.

The only question for consideration is whether input tax paid on the purchases can be adjusted against output tax when the goods so purchased are sold to units in SEZ which are entitled for exemption U/s. 6(7)(b).

Under the SEZ policy of Government of Kerala sale to SEZ are treated as deemed export. So in such a transaction all benefits provided for export are eligible.

As per section 13(2) of KVAT Act, 2003 dealers are entitled for refund of Input tax credit paid in respect of the purchases of any goods which are inter alia sold in the course of export as prescribed in Rule 47(1) of KVAT Rule, 2003.

Section 13(3) further provides that refund due under Sec. 13(1) is adjustable to any tax or other amount due from the dealer under KVAT,KGST, CST Acts.

Statutory provisions being so Input Tax Credit paid by a dealer in respect of the goods which are sold to units in SEZ U/s. 6(7) (b) are entitled either for refund U/s. 13(2) or set off U/s. 13(3) of KVAT Act, 2003.

The points raised are clarified accordingly.

Commissioner.