

**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. Suchala Kumar. S.K.**  
**Joint Commissioner (General),**  
**Office of the Commissioner of Commercial Taxes,**  
**Thiruvananthapuram.**

**2. C. Lalappan.**  
**Joint Commissioner (Audit & Inspection),**  
**Office of the Commissioner of Commercial Taxes,**  
**Thiruvananthapuram.**

**3. P.S. Soman.**  
**Joint Commissioner (Law),**  
**Office of the Commissioner of Commercial Taxes,**  
**Thiruvananthapuram.**

Sub : KVAT Act, 2003 - Clarification U/s. 94 - Rate of tax of certain Traffic Control Equipments - Orders issued.

Read : Application from M/s. Great Effects, Kottayam dtd. 15/2/2013.

**ORDER No.C3/4983/13/CT DATED 28/5/2014.**

1. Sri. Charlie Antony, M/s. Great Effects, Nedunkunnam, Kottayam has preferred an application U/s. 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax of certain commodities used as traffic control equipments.

2. The applicant is a dealer borne on the rolls of the Office of the Commercial Tax Officer, 2nd Circle, Changanacherry, and is dealing in Stopper Plastics, Aluminium and Stainless Steel Profiles, Traffic Control Equipments etc. The applicant has the know-how of manufacture of a host of speed control equipments. The following are the details of such items and its use:

**i. Rubber Speed Hump:-** It is made of rubber and used for controlling speed of motor vehicles on roads. The applicant would contend that in the list of commodity groups prescribed as Annexure to Circular No.48/2008 issued by the Commissioner of Commercial Taxes, Thiruvananthapuram for the purpose of e-Filing of returns, Traffic Control Equipment for Roads have been included as a sub item under Commodity Code No.90080 under Electrical Goods coming under Third schedule. The use of this item is to control speed of motor vehicles on roads and it has no other use.

**ii. Rubber Column Fender and Wall Guard:-** It is also made of rubber with other chemicals and carbon black and used for protecting parking basement, parking columns and walls of public buildings like Bus terminal, Airport Residential complexes, etc.

**iii. Reflecting Road Stud:-** It is made of ABS plastic with reflecting materials and it is fixed on roads and on road dividers for night vision for avoiding accidents. This gets activated only on getting light from vehicles.

**iv. Rubber Wheel Stopper:-** It is made of rubber with rubber chemicals and carbon black and used for protecting walls from the hitting of vehicles and used in public buildings, bus terminals, residential complexes, etc.

**v. LED Solar Road Stud:-** It is made of aluminium with solar panels and blinks its own using solar energy and therefore it is a night vision equipment which can be used as a road safety device.

**vi. Fibre Glass Mesh:-** It is made of fibre glass and used to avoid crack in buildings and it is usually fixed in between columns and brick walls and plastering is done after that.

**vii. Convex Mirror:-** It is fixed at junctions to see vehicles coming from opposite sides and therefore it is useful in avoiding collision of vehicles.

**viii. Hand Rail:-** It is used in bathrooms for handicapped persons to know the place of toilet and wash basin and also to use as a support. It is made of stainless steel or with nylon.

**ix. Tactile Indicator:-** It is made of stainless steel or ABS plastic and it is fixed in front of entrance of public buildings to help blind people to know the place and enter into the place.

**x. Traffic Cone:-** It is made of plastic with reflective stickers and used to control traffic.

3. The applicant would contend that one of the settled principles of interpretation of entries in taxing statutes is to look into the use of the commodity and interpret it on the basis of how it is understood in common parlance or popular meaning. Hon'ble Supreme Court of India in Indo International Industries Vs. Commissioner of Sales Tax, (1981) 47 STC 359 held that in interpreting entries in a Sales Tax Act, resort should be had not to the scientific and technical meaning of the terms or expressions used, but to their popular meaning, i.e., the meaning attached to them by those dealing in them.

4. The applicant would contend that the commodities stated supra are used as devices to control speed of motor vehicles on roads and would fall under the Third Schedule to the Kerala Value Added Tax Act and therefore taxable @ 5%. The applicant has requested to clarify the rate of tax of the commodities.

5. The authorized representative of the applicant was heard in the matter and the contentions raised were examined.

6. Entry 103(13) of the Third Schedule relied on by the applicant is extracted hereunder:

<b>103</b>	<b>Rail coaches, Engines wagons and parts and accessories there of</b>	
(1)	Equipment for railways	8530.10.10
(2)	Rail locomotives powered from an external source of electricity	8601.10.00
(3)	Rail locomotives powered from electric accumulators	8601.20.00
(4)	Diesel - electric locomotives	8602.10.00
(5)	Steam locomotives and tenders thereof	8602.90.10
(6)	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, track-liners, testing coaches and track inspection vehicles	8604.00.00
(7)	Other self propelled railway or tramway coaches, vans and trucks powered from an external source of electricity	8603.10.00
(8)	Railway or tramway passenger coaches, not self-propelled; Luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of HSN heading No. 8604)	8605.00.00
(9)	Railway or tramway goods vans and wagons, not self-propelled	8606
(10)	Railway or tramway track fixtures and fittings	8608.00.10
(11)	Mechanical equipment, not electrically powered for signalling to, or controlling-road, rail, or other vehicles , ships or aircraft	8608.00.20
(12)	Other traffic control equipment for railways	8608.00.30
(13)	Other traffic control equipment for roads or inland waterways, including automatic traffic control equipment for use at ports and airports	8608.00.40
(14)	Parts of railway or tramway locomotives or rolling - stock	8607

7. The HSN Code appearing in Entry 103(13) is 8608.00.40. The said HSN Code is extracted hereunder:

<b>8608</b>	<b>RAILWAY OR TRAMWAY TRACK FIXTURES AND FITTINGS; MECHANICAL INCLUDING ELECTO-MECHANICAL) SIGNALLING, SAFETY OR TRAFFIC CONTROL EQUIPMENT FOR RAILWAY, TRAMWAYS, ROADS, INLAND WATERWAYS, PARKING FACILITIES, PORT INSTALLATION OR AIRFIELDS; PARTS OF THE FOREGOING</b>
8608 00	- Railway or tramway track fixtures and fittings; mechanical (including electro mechanical) signalling, safety or traffic control equipment for railway, tramways, roads, inland waterways, parking facilities, port installation or air-fields; parts of the foregoing :
8608 00 10	--- Railway and tramway track fixtures and fittings
8608 00 20	--- Mechanical equipment, not electrically powered for signalling to, or controlling, road rail or other vehicles, ships or aircraft
8608 00 30	--- Other traffic control equipment for railways
8608 00 40	--- Other traffic control equipment for roads or inland waterways including automatic traffic control equipment for use at ports and airports
8608 00 90	--- Other

8. Note 3(b) of the Chapter 86 of the Customs Tariff Act, as relevant to the context is extracted hereunder:

3. Subject to the provisions of Note 1 above, heading 8608 applies, inter alia, to :

(a) assembled track, turntables, platform buffers, loading gauges;

(b) semaphores, mechanical signal discs, level crossing control gear, signal and point controls and other mechanical (including electro-mechanical) signaling, safety or traffic control equipment, whether or not fitted for electric lighting, for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields.

9. As such, the commodities Rubber Speed Hump, Rubber Column Fender and Wall Guard, Reflecting Road Stud, Rubber Wheel Stopper, LED Solar Stud and Traffic Cones made of plastic which are used as traffic control equipments for roads would fall under the HSN Code 8608.00.40 and hence would be taxable at the rate of 5% by virtue of Entry 103(13) of the Third Schedule to the Kerala Value Added Tax Act, 2003.

10. Being of general use other than as a traffic control equipment, convex mirrors made of polycarbonate cannot be included in Entry 103(13) of the Third Schedule to the Act. None of the entries in any of the Schedules is suitable for incorporating the commodity. As such, the commodity Convex Mirror made of polycarbonate would be taxable at the rate of 14.5% by virtue of Entry 103 of S.R.O. No. 82/2006.

11. With respect to Fibre Glass Mesh used to avoid cracks in buildings, there is no specific entry for the impugned commodity in any of the Schedules to the Act. None of the entries in any of the Schedules is suitable for incorporating the commodity. As such, the commodity Fibre Glass Mesh would be taxable at the rate of 14.5% by virtue of Entry 103 of S.R.O. No. 82/2006.

12. Hand rail is made of stainless steel or with nylon and is used in bathrooms. With respect to Tactile Indicator, as per the brochure produced by the applicant, it is made of materials like zinc, aluminium, brass, steel, polymer composite plastic and is sold as Tactile Indicator bars, and as floors to provide directional guidance to people who need help. Since there is no specific entry for the above commodities in any of the Schedules to the Act, Hand rail and Tactile Indicator would be taxable at the rate of 14.5% by virtue of Entry 103 of S.R.O. No. 82/2006.

The issues raised above are clarified accordingly.

**Suchala Kumar. S.K**  
**Joint Commissioner (General)**

**C. Lalappan**  
**Joint Commissioner (A&I)**

**P.S. Soman**  
**Joint Commissioner (Law)**

To,

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