

49. PROCEEDINGS OF THE COMMISSIONER COMMERCIAL TAXES

THIRUVANANTHAPURAM

Present:- Paul Antony.IAS

Sub:- KVAT Act 2003- Clarification U/s.94-rate Tubular Poles of Galvanized iron pipes- Reg:

Ref:- Application dt. 28/03/07 of M/s. Essar Pipes & Profiles, Ernakulam

ORDER No.C3.15664/07/DT.19..09..07

M/s. Essar Pipes & Profiles, Ernakulam has preferred an application under section 94 of KVAT Act seeking clarification as to whether tubular poles of galvanized Iron Pipes for internet data transmission and distribution will fall under 4 % category or not.

The applicant was given an opportunity of being heard. The applicant contended that the said items would come under Entry 3(8)(k)(x) of the Third Schedule to the said Act.

The contentions raised were examined with reference to the statutory provisions.

As per Entry 3(8)(k)(x) of 3rd Schedule, Tubular Steel Poles for electric transmission and distribution lines under HSN 7308.90.70 is included in the 4 % category. Galvanized iron pipes are also articles of iron and steel covered under chapter 73 of the Customs Tariff Act. Structures and parts of structures covered under HSN 7308 are classifiable under Entry 3(8)(k) of 3rd schedule. Therefore structures of galvanized iron pipes are also classifiable under this Entry. Even though the sub-item (x) is specific to tubular steel poles for electric transmission and distribution lines only, for purpose of classification and tax formulation it is the commodity and not the purpose that overweigh unless specifically mentioned else where.

Therefore for the reasons discussed above, the poles of galvanized Iron Pipes for internet data transmission and distribution will fall under Entry 3(8)(k)(x) of 3rd schedule and would attract tax at @ 4%.

The issue raised is clarified accordingly.

Commissioner