

**51. PROCEEDINGS OF THE COMMISSIONER OF COMMERCIAL  
TAXES  
THIRUVANANTHAPURAM  
Present:- Sri.Paul Antony.IAS**

Sub:- KVAT Act 2003- Clarification U/s.94- Rate of tax- Enamelled Utensils of Iron, Casserole, Hylos- orders issued- Reg:  
Read:- Application from M/s. JNB Marketing (Ind) (P) Ltd, Ernakulam

ORDER NO.C3.26918/07/DT.26.10.07

M/s. JNB Marketing (Ind) Pvt. Ltd, Ernakulam has preferred an application U/s. 94 of KVAT Act seeking clarification on the rate of tax applicable to

- (i) enamelled utensils of Iron used for cooking and serving,
- (ii) Casserole – Plastic insulated utensil with stainless steel inner for  
keeping food warm, and
- (iii) Hylos – plastic insulated jug to keep liquid cold/hot.

The applicant was given an opportunity of being heard. The contentions put forth was that item (i) would fall under entry 137(6)(a) covering HSN 7323.92.00 while item (ii) and (iii) would fall under entry 137(12) of 3<sup>rd</sup> schedule holding HSN 3924.10. It was also contended that item (ii) could alternatively be classified under entry 137(13) of the said schedule. The issues raised were examined with reference to the statutory provisions.

Entry 137 of Schedule III to KVAT Act, 2003 reads as 'Utensils made of Aluminium, Brass, Bronze, iron, Steel Copper, other alloys and plastic'.

Sub-entry 6(c) of entry 137 deals with enameled utensils of Iron(other than cast iron) and steel covered under HSN 7323.94. Therefore 'enameled utensils of Iron used for cooking and serving' mentioned as item (i) above would fall under HSN 7323.94 and so are classifiable under Sub-entry 6(c) of entry 137 of 3<sup>rd</sup> schedule and would attract tax @4%.

Obviously item (ii) and (iii) are basically used for keeping the contents warm or cold. They are vessels which keeps its contents hotter or cooler than their environment by virtue of the insulation or by interposing an evacuated region to provide thermal insulation between the contents and the environment. The insulation avoids heat transfer by conduction or convection. Radiative heat loss is minimized by the reflective coating to surfaces. The chemistry of the commodities being so they cannot be classified as mere utensils under entry 137 (12) or

137(13)of the 3<sup>rd</sup> schedule. Going by the HSN classification 'casseroles' and other vacuum containers' are specifically brought under the HSN 9617.00

Government have under section 6(1)(d) of the Act notified the goods coming under 12.5 % category vide SRO 82/06. As per entry 96 of the said SRO goods coming under HSN 9617.00 are brought under this category. The said entry reads as "Vacuum flasks of all kinds and descriptions including refills for such flasks and thermally insulated flasks, containers and vessels including thermoses, thermic jugs, ice buckets or boxes, tins and receptacles to keep food or beverages or other articles, hot or cold and components and accessories thereof"

In view of the above specific entry "Casserole" – Plastic insulated utensil with stainless steel inner for keeping food warm, and "Hylos" – plastic insulated jug to keep liquid cold/hot are classifiable under the said entry and would attract tax @ 12.5%.

The issues raised are clarified accordingly.

Commissioner