

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. *V.K. Abdul Jabbar, Joint Commissioner (General), O/o. CCT, Tvpm.*
2. *T.V. Kamala Bai, Joint Commissioner (Law), O/o. CCT, Tvpm.*
3. *S.K. Suchala Kumar, Joint Commissioner (Audit & Inspection), O/o. CCT, Tvpm.*

Sub :- KVAT Act, 2003 - Clarification U/s 94 - Rate of tax on Gas R-22 and Gas R-134A - Orders issued.

Read :- Application from M/s. Whirlpool of India Ltd., South Kalamassery dtd. 8/2/2012.

ORDER No.C3/5315/12/CT DATED 13/4/2012.

1. M/s. Whirlpool of India Ltd., South Kalamassery has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax on the commodities Gas R-22 and Gas R-134A.

2. The applicant is a registered dealer having Corporate Office at Gurgaon and Branch Office at South Kalamassery, Kochi as the principle place of business in the State of Kerala and is manufacturing refrigerators, air conditioners, washing machines, microwave oven and other home appliances.

3. The applicant would contend that for the purpose of services subsequent to the sale of refrigerators and air conditioners, they are selling refrigerant Gas R-22 and Gas R-134A to their customers in Kerala.

4. The applicant has produced a copy of the letter from M/s. Gujarat Fluorochemicals Limited, Noida and would contend that the technical name for R 22 (also known as HCFC 22) is Chloro Difluoro Methane. In the ITC-HS classification, this product is covered under:

<i>Chapter</i>	<i>29</i>
<i>Code Heading</i>	<i>2903 (Halogenated Derivatives of Hydrocarbons)</i>
<i>Sub-heading</i>	<i>2903.49.10 [Halogenated derivatives of methane, ethane or propane halogenated only with fluorine and chlorine (HCFCs)]</i>

5. The applicant placing reliance on the copy of the invoice from M/s. SRF Ltd. contends that, as per the description of goods mentioned therein, Gas R-134A is Tetra Fluoro Ethane and the Tariff Heading Number is 2903.49.10.

6. The applicant has requested to clarify the rate of tax of the commodities Gas R-22 and Gas R-134A.

7. The authorised representative of the applicant was heard in the matter and the contentions raised were examined.

8. Entry No. 70(34) of the Third Schedule - List A to the Kerala Value Added Tax Act, 2003 reads:

70 Halogenated derivatives of Hydrocarbons

(34) *Halogenated derivatives of methane, ethane, or propene
halogenated only with flourine and chlorine HCFC3* 2903.49.10

9. The HSN Codes mentioned in the documents produced by the applicant is the same as given in the above said entry. Whether the specifications of the commodities under consideration is in conformity with the specifications mentioned in entry No. 70 (34) of the Third Schedule - List A to the Act is a question of fact. All the HCFCs would not come within the ambit of the said entry.

10. In view of the facts cited supra, it is clarified that if the chemical reading of the commodities Gas R-22 & Gas R-134A is HCFC3, as specified in entry No. 70 (34) of the Third Schedule - List A to the Kerala Value Added Tax Act, 2003, then the impugned commodities would come within the ambit of the said entry and would be taxable at the rate of 4% (5% w.e.f 1/4/2012).

The issues raised above are clarified accordingly.

Abdul Jabbar.V.K.
Joint Commissioner (General)
O/o CCT

T.V.Kamala Bai
Joint Commissioner (Law)
O/o CCT

S.K.Suchala Kumar
Joint Commissioner (A&I)
O/o CCT

To

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