

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. T.K. Ziavudeen.
*Joint Commissioner (Law),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

2. Dr. A. Bijikumari Amma.
*Joint Commissioner (A & I),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

3. N. Thulaseedharan Pillai.
*Joint Commissioner (General),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.*

Sub : KVAT Act, 2003 - Clarification U/s 94 - Tax liability on rent received for mounting flex boards on hoardings and amount received for undertaking wall paintings on walls taken on lease - Judgment of Hon'ble High Court of Kerala - Clarification order withdrawn - Orders issued.

Read : 1. Application dtd. 10.02.2014 from M/s. Drisya Advertising, Kochi.
2. This Office Order of even No. dtd. 09.11.2015.
3. Judgment of the Hon'ble High Court in O.T.Rev. No. 103 of 2012 dated 31.07.2015.

ORDER No.C3/5401/14/CT DATED 03/07/2017

1. M/s. Drisya Advertising, Kochi vide paper 1st read above had preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification as to the tax liability on rent received for mounting flex boards on hoardings and amount received for undertaking wall paintings on walls taken on lease. Accordingly, this Authority vide order read as paper 2nd above clarified that there is no taxable event under 'transfer of right to use' in respect of the rent received for mounting flex boards of advertisements on the hoardings erected by the applicant.

2. But, Hon'ble High Court of Kerala in an identical case, **M/s Delta Communications v/s. State of Kerala**, OTR No. 103/2012 dtd. 31-07-2015 wherein the dealer had acquired land on lease in various places in the State of Kerala for displaying the advertisements in hoardings, held that where under a contract or work order hoarding is transferred to a lessee for a specified period enabling the lessee to display the advertisement works on it according to the

wishes and imaginations of the lessee and therefore the assessee is totally excluded from the realm of the work that is carried out by the lessee in the hoardings let out and hence there is definitely a transfer of right to use of goods by transferring the hoardings to the lessee by the revision petitioner.

3. Going by the above decision rendered by the Hon'ble High Court of Kerala, the applicant is liable to tax under the Act, and therefore, keeping in view the principles laid down in the judgment referred to above, the clarification order read as paper 2nd above is hereby withdrawn.

T.K. Zivudeen
Joint Commissioner (Law)
(General)
O/o CCT

Dr. A. Bijikumari Amma
Joint Commissioner (A&I)
O/o CCT

N. Thulaseedharan Pillai
Joint Commissioner
O/o CCT

To

M/s. Rejith & Maju,
Chartered Accountants,
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