

56. PROCEEDINGS OF THE COMMISSIONER OF COMMERCIAL TAXES
THIRUVANANTHAPURAM

Present:- Paul Antony. IAS

Sub:- KVAT Act 2003- Clarification U/s. 94- rate of tax- Elaneer cool,
Elaneer soda and Elaneer icecream orders issued- Reg:

Read:- Application dated 4-6-2007 of Manjapara Service Co-Operative
Bank No. 4282, Manjapra

ORDER No.C3.15160/07/CT Dt. 06..10..07

The Secretary, Manjapara Service Co-Operative Bank No. 4282, Manjapra, Ernakulam has preferred an application U/s. 94 of KVAT Act 2003 seeking clarification on the rate of tax applicable to Elaneer cool, Elaneer soda and Elaneer ice cream.

The applicant was heard in person and issues raised were examined with reference to relevant statutory provisions

According to the applicant Elaneer soda is manufactured by aerating tender coconut water with carbon dioxide in sealed bottle where as Elaneer cool is the purified coconut water in sealed bottle kept in freezer. Elaneer ice cream is tender coconut mixture with sugar link etc.

The term coconut refers to the fruit of coconut palm (cocos nucifera) Botanically a coconut is a simple dry fruit. The product in question is manufactured out of coconut water from unripe coconut called tender coconut. The water of a coconut is the liquid endosperm of the fruit. The liquid endosperm is mixed with CO₂ and preserved in sealed bottle in case of Elaneer soda and in the case of Elaneer cool this liquid endosperm (water of tender coconut) is purified and kept in sealed bottle in freezer.

In these cases obviously they are edible parts of the fruits and so is entitled to be classifiable under the entry 84(33) of the 3rd schedule which reads as "Fruits, nuts or other edible parts of plants (other than cashew nut roasted, salted or roasted and salted) otherwise prepared or preserved whether or not containing added sugar or sweetening matter or spirit, not elsewhere specified". So since the water of tender coconut is treated as liquid endosperm of the fruit coconut, the product in question is rightly classifiable under entry 84(33) of 3rd schedule which would fetch tax at 4%..

As regard to "Elaneer Ice Cream", it would fall under HSN 2105.00.00. All commodities coming under the HSN 2105.00.00 has been specifically brought under entry 64(9) of SRO 82/06 and would attract tax at 12.5%.

The points raised are clarified accordingly.

Commissioner.