

**62. PROCEEDINGS OF THE COMMISSIONER OF COMMERCIAL TAXES
THIRUVANANTHAPURAM**

Present:-.Paul Antony. IAS

Sub:- KVAT Act 03- Clarification u/s. 94- Rate of tax on Cream sold by Milk dairy-clarified orders issued- Reg:

Read:- 1. Application in Form No. 24 Dt. 20.01.06 filed by M/s. Pooja Milk Foods (P) Ltd.Cochi
2. Hearing Notice No.C7.4705/06/CT Dt. 02.05.06

ORDER No. C7. 4705/06/CT Dt. 06.07.06

M/s. Pooja Milk Foods (P) Ltd, Vennala, Kochi has filed an application for clarification U/s. 94 of KVAT Act 03 on the rate of tax applicable to cream manufactured and marketed by them.

The applicant, M/s. Pooja Milk Foods (P) Ltd is a company dealing in milk and milk products. The milk products dealt by them are cream, ghee, curd, and butter milk.

As per application read as 1st paper above, the applicant requested to issue a clarification on taxability of the item “cream milk” dealt by them. The applicant stated that cream is separated from milk while passing through the centrifugal separator and the same will be in pasty or liquid form, and are selling the cream as it is, without adding sugar or any type of sweetening matter. The contention of the applicant is that milk cream dealt by them is a product exempted from tax as per entry No. 19(1) and (2) of schedule 1 of KVAT Act 03.

Sri.U.N.Menon, Managing Director and authorised representative of the applicant was heard. The contentions of the applicant were examined in detail.

Item No. 19(1) of the first schedule covers fresh items of milk and cream, not concentrated nor containing added sugar or other sweetening matter. Similarly item No. 19(2) covers fresh items of milk and cream concentrated not containing added sugar or other sweetening matter. On the other hand Sl.No. 64 of residuary list of 12.5 %, published as SRO 82/06, covers items like milk and cream in powder, granules or other solid forms.

The item in respect of which clarification is sought is the cream which is separated from milk during the centrifugal process and is sold in a pasty or liquid form without any type of sweetening matter. Hence milk cream produced and marketed by the

applicant will rightly come under entry 19 of the first schedule to KVAT Act 03 as amended by KVAT (Amendment) Act 05.

If the item “milk Cream” is in powder, granule or other solid form, it will come under entry 64 of SRO 82/06 taxable @ 12.5%.

The point sought for is clarified accordingly.

Sd/
Commissioner