

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

Present:-.Paul Antony. IAS

Sub:- KVAT Act 03- Clarification U/s 94- Application filed by M/s. Kelnet Communication Service Pvt. Ltd, Technopark, Thiruvananthapuram- clarified orders issued- Reg:-

Read:- 1. Application in Form No. 24 Dt. Nil
2. Hearing Notice No.VC1.35947/05/ Dt. 26.07.05.

ORDER No.C7.35947/05/CT Dt. 19.07.06

M/s. Kelnet Communications Service (P) Ltd, Park Centre, Technopark, Thiruvananthapuram has filed an application under section 94 of KVAT Act 03 on the following.

As per the application, the applicant stated that they are one of the internet service providers licenced to operate in Thiruvananthapuram district and operating the service for the last six years based in Technopark, Thiruvananthapuram, providing Dial Up Internet Access Packs (prepaid internet coupon) , Leased Line in Technopark and Internet Telephony Services.

The applicant, hence requested to clarify which form of tax (VAT or service Tax) is applicable to them. The applicants are remitting service tax and filed a copy of half yearly service tax returns for the period from October 2004 to March 2005.

The authorised representative of the applicant was heard and the contentions of the applicant were examined in detail.

In the Writ Appeal (Civil) filed by M/s. BSNL and Others, Hon'ble Supreme Court of India has considered the issue of exigibility of tax to communication services, and held that, if sim card is sold separately, the sale of sim card is exigible to Tax. At the same time if sim card is not sold to the subscribers, but is merely part of the service rendered by the service provider, then sim card can not be charged separately to Sales Tax.

Hence it is clarified that, independent sale of prepaid internet Access coupon is exigible to tax @ 4% under entry 118 of 3rd schedule dealing with sim card including recharge coupons.

Commissioner