

**78. PROCEEDINGS OF THE COMMISSIONER OF
COMMERCIAL TAXESTHIRUVANANTHAPURAM**

Present:-.Paul Antony. IAS

Sub:- KVAT Act 03- Clarification U./s 94- Application
filed by M/s. Josco Fashion Jewellers- Kottayam.

Read:- 1. Application in Form No. 24 Dt. 10.07.06

2.Hearing Notice No.C7.30258/06/DT. 27.07.06

ORDER No.C7.30258/06/CT Dt. 02.09.06

M/s. Josco Fashion Jewellers, Kottayam has filed an application U/s. 94 of KVAT Act 03 requesting to clarify the following points.

1. Is the applicant liable to pay purchase tax on old ornaments, if the applicant had opted for compounding under section 8 of the KVAT Act 03.
2. Applicant has opened a branch during the year 2005-06. Can the applicant claim the benefits of the compounding since it is only a branch and not a new registration.
3. Is it necessary to file return and is the assessing authority bound to complete the assessment, if the applicant opted for compounding
4. Is input tax credit allowable to the applicant if opted for compounding.
5. The rate of tax of gold has changed from 1% to 4 %. For the purpose of compounding for 2006-07, whether tax is to be computed from April 1st or July 1st (ie. 12 months or 9 months)
6. Is credit available for the Input Tax paid for the month of April,May and June 2006.
7. Will there be any restriction on the turnover of the applicant who opted for compounding.

The Authorised Representative of the applicant was heard. The points sought for clarifications are clarified as follows:

1. For the purpose of calculation of compounded tax due, purchase tax paid during the previous year will also be taken into consideration. Apart from compounded tax so worked out, purchase tax need not be paid during the year if opted for compounding u/s 8, ie, once compounded for a year, no tax other than compounded tax has to be paid for the relevant year.
2. Benefit of compounding will not be available to the branch opened during the year 2005-06, since the Finance Bill 2006 (Revised) clearly envisages that 3 year consecutive business preceding to the year of option is mandatory.
3. The dealer who has opted for compounding facility is required to file return as required in section 20 of KVAT Act, 2003. If the return submitted is in the prescribed manner the assessment relating to the period shall be deemed to have been completed on receipt of the return.
4. As per section 11(4) of KVAT Act 03, dealers paying compounded tax are not eligible for Input Tax credit.
5. Compounding is applicable for the whole year.
6. No input tax credit is permissible for 4/06 to 6/06.
7. For the purpose of compounding, no turnover limit is prescribed.

Commissioner