

**92. 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. Modern Sign Systems, Kochi- Clarified orders issued-
Reg:

Read:- 1. Application in form No. 24 Dt. 19.07.06
2.Hearing Notice No.C7.31433/06/CT Dt. 19.08.06

ORDER No.C7.31433/06/CT Dt. 18.11.06

M/s. Modern Sign Systems, Kochi has filed an application for clarification U/s. 94 on the following points.

1. Where the applicant manufactures the sign boards, install them at the site of the awarders, will the applicant be eligible to opt for the payment of tax at compounded rates specified under section 8 of the KVAT Act 03 and if so, at what rate?
2. Where the applicant undertakes the dismantling of the existing sign boards, does their servicing, painting, flex changing and re-erecting, will the applicant be eligible to opt for the payment of tax at compounded rates specified under section 8 of the KVAT Act 03 and if so, at what rate?
3. Where the applicant gets the sign boards manufactured by outside the State manufacturers, the outside manufactures sends the goods to the premises of the customers in Kerala direct as per the terms of the contract and installation is done by the applicant.-
 - i) will the outside manufactures be liable to get registered under the provisions of the KVAT Act?

- ii) If not, will the applicant be liable to tax under the provisions of the KVAT Act and at what rate?

Authorised representative of the applicant was heard. The contentions raised by the applicant were examined in detail, and the points sought for are clarified below:

1). Admittedly the sign board supplied and installed is an item manufactured either by the applicant or by an outside dealer. The term manufacture shall mean use of Raw materials and production of goods which are commercially different from the Raw materials. The manufactured product acquire a distinct identify and character and cannot be reverted. So in the instant case what is happening is supply and installation of a product, manufactured in accordance with certain specifications, at the premises of an awarder. The awarder has to keep the site ready for installation as and when the board arrives at the site. Without keeping the site ready for installation, the same could not be done. So ground work for installation has to be done by the awarder himself. Any work done by the applicant in such case is only enabling to the supply. So the nature of transfer in this case is “in the form of goods”, irrespective of the fact whether it is a tradable commodity or not. The dictum laid down by Hon'ble Supreme Court in Kone Elevators case reported in 140 STC is equally applicable in this case also. Hence the applicant is not eligible for compounding U/s. 8.

2). When the applicant undertake dismantling of exiting sign boards and does their servicing, painting, flex changing and re-erecting the activity tantamount to works contract. The applicant can compound the work U/s. 8(a) at the rates specified therein.

3). When the applicant gets the sign board manufactured by an outside dealer, the transaction is an interstate purchase between the applicant and the outside state manufacturer, irrespective of the status of delivery. If it is an interstate

purchase / sales between the awarder and outside state dealer in conformity with section 3 of CST Act, read with Sale of Goods Act, then the role of applicant is only to install the board, purchased by the awarder, which tantamounts to a contract of labour only.

In the instant case the applicant is one who had purchased the board from an outside state dealer against the order placed by him and installed the same at the site of the awarder. The transaction is transfer in the form of goods, as detailed in para 2(1). Hence,

- i) the outside state dealer need not necessarily be a registered dealer under KVAT Act.
- ii) The applicant is not eligible for compounding for such a transaction. He has to pay tax U/s. 6(1)(d) @ 12.5 %.

The point sought for is clarified as above.

Sd/
Commissioner