

DEPARTMENT OF COMMERCIAL TAXES, KERALA
PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION
U/s.94 OF THE KERALA VALUE ADDED TAX ACT, 2003.

Members present are:

1. *Abdul Jabbar.V.K, Joint Commissioner (General), O/o. CCT, Tvpm.*
2. *T.V. Kamala Bai, Joint Commissioner (Law), O/o. CCT, Tvpm.*
3. *S.K. Suchala Kumar, Joint Commissioner (Audit & Inspection), O/o. CCT, Tvpm.*

Sub :- KVAT Act, 2003 - Clarification U/s 94 - Eligibility for Registration in the light of Section 16(2) of the Act - Issue judicially settled - Application declined - Orders issued.

Read:- Application from Sri. V.T. Ibrahim, M/s. Melepurakkal Hospital & Scanning Centre, Malappuram dtd. 17/3/2011.

ORDER No.C3/11023/11/CT DATED 7/12/2011.

1. Sri. V.T. Ibrahim, M/s. Melepurakkal Hospital & Scanning Centre, Malappuram has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003, seeking clarification on the eligibility for registration in the light of Section 16(2) of the Act.

2. The applicant submitted an application in Form No.1 before the Commercial Tax Officer, Manjeri for registration under the Act on 20/7/2010 seeking the effect of registration from 1/4/2009, as the business was commenced on 1/4/2009. But, the assessing authority didn't grant registration from the date of commencement of business on the grounds that the provision under Section 16(2) of the Act is applicable only for those dealers who are coming under the Presumptive and Compounding clauses.

3. The applicant contends that an amendment was made to the proviso to the sub-section (2) of section 16 of the Kerala Value Added Tax Act, 2003 as per Kerala Finance Act, 2009, and it reads as follows:

Provided that registration shall be deemed to have been granted with effect from the date of commencement of business irrespective of the date of application, for the purposes of ,--

- (a) paying tax under sub-section (5) of section 6, subject to eligibility, and*
- (b) opting for payment of tax under section 8 for the relevant years subject to eligibility.*

Provided further that new dealers applying for registration and existing dealers having registration may avail this benefit subject to the condition that they shall pay tax under the respective provisions along with interest and will not be entitled for any refunds relating to the period prior to filing of application for registration.

4. The applicant has requested to clarify whether the above said provision is confined only to those dealers mentioned as (a) and (b) therein or applicable to all the dealers who are applying for new registration under the Act. They have also requested to clarify whether they are eligible for registration with effect from the date of commencement of business.

5. The authorized representative of the applicant was heard and the contentions raised were examined.

6. The issue raised by the applicant has already been examined and judicially settled by the Division Bench of the Hon'ble High Court of Kerala in its judgment dated 23/12/2009 in the case, Sales Tax Officer, Kozhikode Vs Kerala Curry House [W.A. No. 2874 of 2009()]. In view of the said facts, the application seeking clarification is hereby declined.

Abdul Jabbar.V.K.
Joint Commissioner (General)
O/o CCT

T.V. Kamala Bai
Joint Commissioner (Law)
O/o CCT

S.K. Suchala Kumar
Joint Commissioner (A&I)
O/o CCT