

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 (Audit & Inspection), O/o.CCT, Tvpm.*
2. *T.V. Kamala Bai, Joint Commissioner (Law), O/o.CCT, Tvpm.*
3. *A. Asok Kumar, Deputy Commissioner (Internal Audit), O/o.CCT, Tvpm.*

Sub:- KVAT Act, 2003- Clarification U/s. 94 - Rate of Tax applicable to Metal Crushing Unit U/s 8(b) - Orders issued.

Read:- Application from M/s. Star Metals, Palakkad dated 22/10/2009.

ORDER No.C3/44783/09/CT DATED 10/5/2011.

1. M/s. Star Metals, Palakkad has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003, seeking clarification on the rate of tax applicable to Metal Crushing Unit U/s 8(b) of the Act.

2. The applicant, a partnership firm, on purchase of crushing unit on 24/4/2008, applied for registration along with application for payment of tax U/s 8(b) of the Act. The applicant also paid tax U/s 8(b) for the year 2008-09 at Rs.1,60,000/- in quarterly installments and paid tax for the year 2009-10 accordingly. The Intelligence Officer, Squad - IV demanded tax of Rs.3,84,340/- and issued notice under Revenue Recovery Act for same period of 2008-09. Now the Intelligence Officer has issued notice proposing penalty of Rs.3,20,000/- for the same year stating that the size of machine in the unit is 55cm x 22.5cm and therefore tax due is Rs.3,20,000/- whereas the applicant has paid only Rs.1,60,000/-.

3. The applicant has referred Section 8(b) which reads as follows:

*(i) for each crushing machine of size not exceeding 30.48cm x 22.86cm
= Rs.50,000 p.a.*

*(ii) for the each crushing machine of size exceeding 30.48cm x 22.86cm
but not exceeding 40.64cm and 25.40cm = Rs. 1,60,000 p.a.*

*(iii) for each crushing machine of size exceeding 40.64cm x 25.40cm
= Rs.3,20,000 p.a.*

(iv) for each cone crusher Rs.7,50,000 p.a.

4. The applicant contends that the machine installed in the unit of the applicant is having width of 22.86 only even though it is having length above 40.64 cm. The applicant would further contend that the applicant has opted for payment of tax U/s 8(b) and paid tax which the assessing authority should accept in view of the decision of Hon'ble High Court of Kerala in State of Kerala Vs. Kalyana Raman [2009 (3) KLT 31 (SN)]. The applicant also contends that there is no provision in the Act to demand more tax when the length of machine alone is above 40.64 cm and width below 25.40 cm.

5. The applicant has requested to clarify the rate of tax due for crusher machine of the size 55cm x 22.86cm.

6. The authorised representative of the applicant was heard and the contentions raised were examined.

7. The size of the various machines referred in Section 8(b) of the Kerala Value Added Tax Act denotes the linear dimensions of the mouth of the crusher jaw, which, in turn, indicates to the intake volume of granite boulders/ metal for crushing, at a given point of time. This linear dimensions has to be multiplied to arrive at the appropriate mouth area, or jaw size. As such, it is clarified that the compounded tax payable on a crushing machine of the size 55cm x 22.86cm during the year 2008 - 2009 was Rs.3,20,000/- per annum.

The issues raised above are clarified accordingly.

Abdul Jabbar.V.K.
Joint Commissioner (A&I)
O/o CCT

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

A. Asok Kumar
Deputy Commissioner (IA)
O/o CCT