

**8. PROCEEDINGS OF THE COMMISSIONER OF
COMMERCIAL TAXES, THIRUVANANTHAPURAM**

Present : Sri.Paul Antony .IAS

Sub:- KVAT Act 2003- Clarification U/s. 94- whether job work of galvanization activity comes under the purview of works contract- Reg:

Read:- Application dt. 19.10.06 of M/s. General Engineering Industries, Kochi

ORDER No.C3.50137/06/CT Dated.05.02.07

M/s. General Engineering Industries, 9/35, Attai, Trikkakkara, Kochi has preferred an application U/s. 94 of KVAT Act seeking clarification on the following points:

1. Whether the job work of galvanization activity carried out by the petitioner from 01.04.05 onwards on the material supplied by various parties come under the purview of works contract under the provisions of KVAT Act.
2. Whether there is transfer of hydrochloric acid and furnace oil in the galvanization process from the petitioner to the parties or get consumed during the process.
3. What is the rate of tax applicable on the transfer value of zinc used in the galvanization process since the petitioner has maintained proper accounts for the purchase and consumption of zinc from 01.04.05 onwards.
4. Whether there is any tax liability under the provisions of the KVAT Act on the petitioner under the above circumstances for the job work of galvanization.

The applicant was given an opportunity of being heard on 18.11.06. The authorized representative appeared and was heard. The contentions raised by the applicant have been verified with reference to relevant statutory provisions.

In para (3), of the grounds for clarification filed by the applicant it is rightly admitted that the process of galvanization carried out by the applicant is “un-disputably a works contract”. Since there is no dispute or difference in opinion further clarification of issue No. (1) is unwarranted.

As regard to issue No. (2), admittedly zinc used for the execution of the work is transferred in “other forms”, for which furnace oil is used as a fuel for melting zinc and hydrochloric acid is used in the process of galvanization and is not retrievable. For the transformation of the “raw zinc” into the form in which it is transferred, hydrochloric acid forms as an element in the transferred form and so the transfer includes transfer of hydrochloric acid also even though it is not distinguishable. As regard to furnace oil, as this is used as fuel, there would be no transfer in property.

As regard to issue No.(3) by virtue of clause (f) of subsection (1) of section 6 of the KVAT Act, since the transfer is not in the form of goods but in some other form, the rate of tax would be @ 12.5 % on the taxable turnover from 01..07..2006. Up to 30.06.06 if the goods incorporated are separately ascertainable the rate would be the rate applicable to the goods. Here the goods involved are only zinc and hydrochloric acid. Rate of tax of these goods are 4 % vide entry 171 & 76 respectively as per the list A to third schedule to KVAT Act,2003. So the rate of tax during these periods would be @ 4% on the transfer value worked out in accordance with Rule 9(2A) of KVAT Rules 2005.

For the foregoing reasons the work in question cannot be treated as a ‘job work’ but is a ‘works contract’ involving transfer of property having tax liability as mentioned above.

The issues raised are clarified accordingly.

Commissioner.