

**14. PROCEEDINGS OF THE COMMISSIONER OF COMMERCIAL TAXES  
THIRUVANANTHAPURAM**

Present:- Paul Antony.IAS

Sub;- KVAT Act 2003- Clarification under section 94-  
Brassieres manufactured by KEDES-whether exempted or  
not- orders issued- reg:

Read:- Application dt. 21.11.06 of Sri.K.Vijayan, Jai  
Enterprises, Thampanoor, Thiruvananthapuram

**ORDER No.C3.55401/06/CT Dt.02.03.07**

Sri.K.Vijayan, Jai Enterprises, Thampanoor, TVM preferred an application under section 94 of KVAT Act,2003 seeking clarification as to whether the Brassieres manufactured by KEDES and sold by the applicant is exempt from levy of tax.

The authorized representative of the applicant was heard. The issue raised for clarification is that since Khadi garments and made ups are exempted vide entry 27 of 1st schedule, whether the Brassieres manufactured by M/s KEDES are taxable at the hands of the applicant who purchases the said goods from them. The applicant had also put in an affidavit to the effect that the commodity in question is manufactured with khadi cloth.

The issue raised has been examined with reference to relevant statutory provisions and materials on record.

M/s. KEDES is a unit registered under KVIC. So the unit is eligible for exemption at their point of sale on the turnover of goods mentioned under entry 55 of 1<sup>st</sup> schedule to KVAT Act, 2003. But this entry does not cover the commodity 'Brassieres'. So necessarily the product in question will be taxable at the hands of M/s KEDES and also on subsequent sales.

The next issue to be examined is that since 'khadi garments and made ups' are exempted vide entry 27 of 1<sup>st</sup> schedule to the said Act, whether the Brassieres manufactured by KEDES using khadi cloth are taxable at the hands of the manufacturer and the applicant who purchases the said goods from them. Obviously if the product in question is an exclusive khadi material it stands exempted by virtue of entry 27 of 1<sup>st</sup> schedule to the said Act.

But here the specific question raised is whether the Brassieres manufactured by M/s KEDES and sold by the applicant is exempt from levy of tax. In order to answer this point it has to be ascertained as to whether the product manufactured is an exclusive khadi product or not. So a detailed investigation was conducted through the Commercial Investigation Wing of the Department which revealed that the unit is manufacturing 'cotton brassieres and nylon and polyester cloth brassieres' using imported cotton cloth, nylon cloth and polyester cloth. So the brassieres manufactured by M/s KEDES will not fall under entry 27 of the 1<sup>st</sup> schedule and are not entitled for exemption at the hands of the manufacturer as well as on subsequent sales. The product is therefore classifiable under entry 105(28) of 3<sup>rd</sup> schedule taxable at four percent.

The points raised are clarified accordingly.

Commissioner