

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

Present:- Paul Antony.IAS

Sub:- KVAT Act 2003- Clarification U/s. 94- rate of tax-
Minilab with its accessories- Clarified -orders issued- reg:

Read:- 1.Application dt. 26.12.06 out in by Jindal Photo Ltd,
Manikkath Cross Road, Kochi.

ORDER No. C3.45563/06/CT DT.09-02-2007

M/s. Jindal Photo Ltd, Kochi has preferred an application under section 94 of KVAT Act 2003 seeking clarification on the rate of tax applicable to “Mini lab with its accessories.”

The authorized representative appeared and was heard. The issue raised has been analyzed with reference to relevant statutory provisions.

The applicant contended that ‘Mini lab’ is a “photographic Machinery” covering under sub-entry (60) of entry 83 of 3rd schedule which does not provide an HSN. In the absence of HSN it has to be construed in common parlance or commercial parlance.

In the commercial circle there is no commodity which is commercially known as “Machinery for photography” so the entry has to be construed on common parlance.

The entry in question in the 3rd schedule is “Machinery for photography” ie; the equipments used for photography. The literal meaning of the term ‘photography’ is that it is a process of making pictures by means of the action of capturing light on a film. This process is done through mechanical or digital devices known as camera. Further a photograph is an image created using a record of light falling on a light sensitive surface usually photographic films or CCD. So the event of

“photography” ends in creating the image of an object by means of capturing light on a film.

So the process of photography, the process of “film or CCD processing” and the process of taking printouts cannot be construed as a single activity.

A mini-lab is a small photographic developing and printing service. Two main machines required in a mini lab set up are “a film processor and a printer/processor which are computer controlled. In such a lab the input is the film or CCD as the case may be and the output is the printout of the images stored in them by the process of ‘photography’. Thus ‘mini lab’ is an admixture of apparatus holding separate identity used for developing photographic films and taking its printouts which has nothing to do with the process of ‘photography’ and so it cannot be construed as a ‘photographic machinery’.

For the reasons stated above, the contention of the applicant that the ‘Mini lab’ covering under HSN 9010-10-00 would fall under the entry 83 (60) ie; “machinery for photography” fails. Since the commercially known “mini lab” has not been specifically included in any of the schedules, which would necessary have to be classified under residual entry 103 of SRO 82/06 taxable @ 12.5%.

In view of the above, the item “mini lab with its accessories” is taxable @ 12.5%.

The point sought for is clarified accordingly.

Commissioner.