PROCEEDINGS OF THE COMMISSIOER OF COMMERCIAL TAXES, TRIVADRUM

Present: Sri. V. Somasundaran, IAS.

Sub:- Kerala VAT Act 2003 - clarification u/s 94 - rate of Tax of white oat- clarified-orders issued - regarding.

Read:-- Application in Form No. 24 dated 27-7-2005 of Thomson Paper Products, Kandamangalam Complex, Basin Road, Erakulam.

<u>**ORDER No. C3.42359/2005/Dated 19-11-2005.**</u>

M/s. Thomson Paper Products, Ernakulam has preferred a application under Section 94 of the KVAT Act 2003 and requested to clarify whether "while oats" is taxable under VAT and if so the rate thereof.

The applicant has represented that the commodity is not a high value added item and is like any food grain such as wheat or rice. The applicant has further informed that the processing that takes place is limited to cleaning and packing and the product has to be cooked like any other food grain before it can be made edible. The contention put forth by the applicant is that since other good grains are taxable either (@ 4% or @ %, the rate of 12.5% cannot apply to their product.

Sri. Joy Thattil Ittoop, counsel for the applicant was heard. A sample of the product was also produced for examination. The commodity sold by the applicant is produced by dehusking oats, cleaning and packing it in airtight containers. The applicant contends that the commodity is exempt from tax under entry No. 12 of the first schedule of the Kerala VAT Act. The commodities included under this entry are coarse grains other than rice and wheat. It would be clear from the wording of the entry and the commodities included therein that dehusked, cleaned and packed grains will not come under it. Only grains that have not been subjected to any processing or packing can legitimately included under this entry. I am therefore not able to accept the contention that the commodity "white oats" is exempted from tax.

As the commodity "white oats" has not been listed in any of the schedules of the Kerala VAT Act, it is clarified that the commodity is taxable at the rate of 12.5%.

COMMISSIONER