

**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. K.M. Althaf, Joint Commissioner (Audit & Inspection), O/o CCT, Tvpm.  
[Formerly Deputy Commissioner (Intelligence), Tvpm]
2. R. Rajasekharan Nair, Deputy Commissioner (Intelligence), O/o. DC (Int),Tvpm.  
[Formerly Deputy Commissioner (Audit & Inspection), 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 of Biscuits which are not registered under the Trade Marks Act - Orders Issued.

Ref: Application from M/s. Soji Enterprises, Balaramapuram dated 7/9/2009.

**ORDER No.C3/37463/09/CT DATED 26/3/2010.**

1. M/s Soji Enterprises, Balaramapuram has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax of biscuits which are not registered under the Trade Marks Act.

2. The applicant purchased biscuits from Cookies (India) Pvt Ltd, Thrissur and paid VAT at 4%. The applicant contends that the Tariff item and sub-item under the Central Excise Act shown in the Bill (Invoice) dated 6/6/2006 is 1905.31.00 and the description is to the effect “Coated with Chocolate or Containing Chocolate”.

3. The applicant has referred Entry 11 of the SRO No.82/2006 and contends that bakery products must be registered under Trade Marks Act 1999 to be taxable at 12.5% and in other cases the rate of tax is 4%.

4. The applicant has requested to clarify the rate of tax applicable to biscuits which are not registered under the Trade Marks Act.

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

6. If the goods are sold under brand name registered under the Trade Marks Act, then it will attract tax at the rate of 12.5% and if not, it will be taxable at 4%. The above position and the issues raised by the applicant has already been clarified vide Order No.C3/40405/08/CT dated 8/1/2009.

The issues raised above are clarified accordingly.

Joint Commissioner (A&I)  
O/o CCT  
[Formerly DC(Int)Tvpm]

Deputy Commissioner (Int)  
O/o DC(I) Tvpm  
[Formerly DC(A&I)Tvpm]

Deputy Commissioner (IA)  
O/o CCT

To,

Sri. Philip Mathew,  
Advocate,  
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