

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. Suchala Kumar. S.K.
Joint Commissioner (General),
Office of the Commissioner of Commercial Taxes,
Thiruvananthapuram.

2. C. Lalappan.
Joint Commissioner (Audit & Inspection),
Office of the Commissioner of Commercial Taxes,
Thiruvananthapuram.

3. P.S. Soman.
Joint Commissioner (Law),
Office of the Commissioner of Commercial Taxes,
Thiruvananthapuram.

Sub : KVAT Act, 2003 – Clarification U/s. 94 – Rate of tax of Mobile phone battery – Orders issued.

Read : Application from Sri. Rajesh Mohan V.P, M/s. Magic Communications, Kodungallur dtd. 17/6/2013.

ORDER No.C3/18337/13/CT DATED 28/5/2014.

1. Sri. Rajesh Mohan V.P, M/s. Magic Communications, Kodungallur has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax of batteries used in mobile phones.

2. The applicant is a dealer in mobile phones and its accessories, borne on the rolls of the Office of the Commercial Tax Officer, Kodungallur. The applicant had sold batteries used in mobile phones during the year 2012-13 collecting tax at 5%. The applicant has no CST registration and all the purchases were effected from M/s. Savex Computers Ltd., Kochi. The Intelligence Officer (Commercial Investigation Branch), Thrissur directed the applicant to produce the books of accounts and other records for the year 2012-13 and had observed that batteries used in mobile phones would be taxable at RNR.

3. The applicant would contend that mobile phone batteries can be used only in mobiles and it can be classified only as part of mobile phones. The applicant has requested to clarify the rate of tax of the commodity.

4. The authorized representative of the applicant was heard in the matter and the contentions raised were examined.

5. The applicant has produced copy of the Tax Invoice issued by M/s. Savex Computers Ltd., Kochi, wherein the commodity *Battery Black – Samsung* is seen included in the Third Schedule to the Act under Entry 69(29)(b) and the HSN Code mentioned therein is 8517.12. Entry 69(29)(b) of the Third Schedule as relevant to the context is extracted hereunder:

69 IT Products

(xx) xxxx	xxxxxxx
(29) <i>Electrical apparatus for line telephony or line telegraphy-</i>	
(a) <i>Line telephone sets with cordless handsets</i>	8517.11
(b) <i>Telephones for cellular networks or for other wireless networks</i>	8517.12

6. There is separate four digit HSN Code for batteries including mobile phone batteries viz. 8506 and 8507. Since separate HSN Code is mentioned for batteries, it will not be includible in the HSN Code 8517.11 [Entry 69(29)(b) of the Third Schedule] or HSN Code 8517.70 [Entry 69(30) of the Third Schedule].

7. As such, mobile phone batteries sold separately would be taxable at the rate of 14.5% by virtue of Entry (12) of S.R.O. No. 82/2006.

The issues raised above are clarified accordingly.

Suchala Kumar. S.K
Joint Commissioner (General)

C. Lalappan
Joint Commissioner (A&I)

P.S. Soman
Joint Commissioner (Law)

To

Sri. C. Krishnakumar,
Chartered Accountant,
Civil Lines Road,
Thrissur – 680 004.