

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

2. T.K. Ziavudeen.
Joint Commissioner (General),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.

3. V.J. Gopakumar
Deputy Commissioner (General),
Office of the Commissioner of Commercial Taxes, Thiruvananthapuram.

Sub : KVAT Act, 2003 – Clarification U/s 94 – Rate of tax U/s 8 on works contract awarded by KSEB when the dealer has CST Registration – Orders issued.

Read : Application from M/s. Aravali Infrapower Ltd., Kalpetta dtd. 11/9/2013.

ORDER No.C3/27742/13/CT DATED 21/11/2014.

1. M/s. Aravali Infrapower Ltd., Kalpetta has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax applicable under Section 8 of the Act with regard to contract work awarded by Kerala State Electricity Board.

2. The applicant is a Limited Company having its Registered Office at New Delhi. The applicant is a registered dealer under the Kerala Value Added Tax Act, 2003 and the Central Sales Tax Act, 1956, borne on the rolls of the Office of the Commercial Tax Officer (Works Contract), Kalpetta. The applicant is an electrical contractor and had opted for compounding U/s 8 from 2011-12 onwards. The applicant has interstate purchases and is currently carrying out an electrical project for Government of Kerala under RGGVY project in Wayanad and Palakkad Districts. The project is being executed on the basis of the tri-partite agreement entered into on 21/7/2005 amongst Rural Electrification Corporation Ltd., Government of Kerala and Kerala State Electricity Board. According to Clause C of the said agreement “*And whereas Government of Kerala has entrusted the responsibility to KSEB for formulation, development and implementation of the projects in the identified area involving system planning, design, engineering (in accordance with REC’s guidelines, specifications and construction standards wherever applicable) and procurement in accordance with agreed competitive bidding procedures and undertake to construct / implement / commission the sub-transmission and distribution works under the project(s) on behalf of Govt. of Kerala*”. Further according to Clause G of the aforesaid agreement “*Government of Kerala shall be the owner of the assets created on implementation of the individual project(s), as posed by KSEB and sanctioned by REC under the national*

programme. Government of Kerala has authorised the KSEB to operate and maintain these assets to effect power supply in the project areas and derive consequential benefits out of the assets created under the project”.

3. The applicant has requested to clarify the rate of tax applicable U/s 8 of the Act in the above case.

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

5. The applicant has produced a copy of the Agreement executed with Kerala State Electricity Board at the time of hearing. On perusal of the said agreement, it is apparent that the awarder of the work is Kerala State Electricity Board. As per the Section 8(a)(ii) provision, the compounded tax rate of four percent shall be applicable only to those works contracts awarded by the Government of Kerala, Kerala Water Authority or Local Authorities.

6. In the instant case, the applicant is registered under the Central Sales Tax Act, 1956 and is also bringing goods from outside the State for use in the work, and hence the rate of compounded tax applicable would be the normal rate applicable to private contractors. The applicant *shall pay tax at three percent of the whole contract amount after deducting the purchase value of goods excluding freight and gross profit element consigned into State on stock transfer or purchased from outside the State and for the purchase value of goods so deducted shall pay tax at the scheduled rate applicable to such goods as per sub-clause (ii) of clause (a) of Section 8 of the Kerala Value Added Tax Act, 2003.*

The issues raised above are clarified accordingly.

C. Lalappan	T.K. Ziavudeen	V.J.Gopakumar
Joint Commissioner (A&I)	Joint Commissioner (General)	Deputy Commissioner (General)

To,

M/s. Aravali Infrapower Ltd.,
Maravayal, Munderi, P.O. Kalpetta,
Wayanad – 673 121.