

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

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

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

Read : Application from Sri. V.V. Faizal, M/s. Hiba Traders, Feroke dtd.
29/10/2013.

ORDER No.C3/32376/13/CT DATED 13/11/2014.

1. Sri. V.V. Faizal, M/s. Hiba Traders, Feroke has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax of gole pappad (fryums).

2. The applicant is a registered dealer borne on the rolls of the Office of the Commercial Tax Officer, IVth Circle, Kozhikode and is dealing in rice products, tapioca products, pappad / appalam etc. The applicant mainly purchases pappad from M/s. Venkataramana Food Specialities Ltd., Mettupalayam, Puthucherry. The goods so purchased is manufactured out of maida, tapioca flour etc.

3. The applicant would contend that Entry 36 of the First Schedule covers all pappads under that entry whether it is manufactured out of pulses, rice, wheat etc. The applicant, placing reliance on the Order No.C3-49774/06/CT dtd. 20/1/2007 wherein it was clarified that ***Applam is nothing but Pappad which is enlisted as serial No.36 of 1st schedule to KVAT Act 2003, and so is a non-taxable commodity*** would contend that the same interpretation is applicable in the instant case also.

4. The applicant has also relied on the decision of the Hon'ble Supreme Court in Sivasakthi Gold Finger Vs. Asst. Commissioner, Commercial Taxes, Jaipur to support his contentions. The applicant has requested to clarify the rate of tax of the commodity.

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

6. The sample of the commodity produced by the applicant would show that the impugned commodity is 'fryums'.

7. Entry 36 of the First Schedule to the Act viz. **Pappad** does not have any HSN Code. As such, according to the Rules of Interpretation, common parlance or trade parlance test has to be adopted.

8. Fryums is a snack made from dough with added colour and are in different shapes like mini-checks, buttons, short tubes, stars, mini wheels and 'O' rings. It has to be fried in oil before using.

9. Pappads on the other hand, in trade parlance are thin flat and disc shaped food items based on dough made of mainly black gram flour and other flours. It is fried or cooked in dry heat. 'Appalam' is the Tamil word for 'Pappad'.

10. So in trade, 'fryums' and pappads are distinct, and the consumer also does not use the words interchangeably.

11. As such, it can safely be concluded that fryums would not fall within the scope of Entry 36 of the First Schedule and hence, can aptly be classified under Entry 49(2) of the Third Schedule to the Kerala Value Added Tax Act, 2003, taxable at the rate of 5%.

The issues raised above are clarified accordingly.

C. Lalappan
Joint Commissioner (A&I)

P.S. Soman
Joint Commissioner (Law)

T.K. Ziaudeen
Joint Commissioner (General)

To

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