

**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 ‘Cool Cane’ – Orders issued.

Read : 1. Application from Smt. Sindhu Preman, M/s. Mahima Exports, Neriya mangalam dtd. 21/1/2014.

2. Written submission produced by the applicant dtd. 6/9/2014.

**ORDER No.C3/3308/14/CT DATED 29/11/2014.**

1. Smt. Sindhu Preman, M/s. Mahima Exports, Neriya mangalam has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax of ‘Cool Cane’.

2. The applicant has started a SSI Unit under the name and style M/s. ‘Mahima Exports’ at Neriya mangalam, Ernakulam. The main business activity of the unit is manufacturing and marketing natural sugar cane juice packed in disposable sealed cans. The applicant would contend that their product ‘Cool Cane’ is totally a natural product containing only the following ingredients.

- i. Juice extracted from sugar cane
- ii. Natural lemon extract / juice

No other ingredients or any nature of preservatives / chemicals are used in the product.

3. The applicant would contend that the ingredient juices used for the manufacture of the product are extracted from exempted goods, which fall under First Schedule to the Act. Since no other preservatives or chemicals are used in the manufacturing process, the product is equally good as natural fresh juice extracts. ‘Cool Cane’ is a natural product processed from sugar cane. It can

never be compared to soft drinks, synthetic fruit juices, other like products etc. available in the market.

4. The applicant would also contend that the general products manufactured from sugar cane plants are sugar and jaggery, and a product processed from parent plant cannot be taxed at a higher rate than the prevailing rate of tax imposed on another product manufactured from the same plant. So when jaggery manufactured from sugarcane plant is taxed at 5%, the maximum rate that can be imposed on the primary product of sugar cane plant i.e. sugarcane juice is 5% only.

5. The applicant would further contend that as an alternative, the applicant's product may be classified as an item falling under Entry 84(33) of the Third Schedule to the Act. The applicant placing reliance on the order of the Kerala Value Added Tax Appellate Tribunal, Ernakulam in T.A. VAT No. 744/2011 dated 30/9/2011 would contend that the said order can very well be interpreted in *pari-passu* with the applicant's contention.

6. The applicant has requested to clarify the rate of tax of the product sold under the name and style 'Cool Cane'.

7. The authorised representative of the applicant was heard in the matter and the contentions raised were examined.

8. The Kerala Value Added Tax Act Schedule Entries to be examined in this regard are Entries 7, 49 and 84(33) of the Third Schedule to the Act. Entry 7 of the Third Schedule reads *Bakery products, sweets confectionery and other food products other than those sold under brand name registered under The Trade Marks Act, 1999* and Entry 49 reads *Food products like pickles, corn flakes, savouries, sweets made of groundnuts, gingelly, other than those sold under brand name registered under The Trade Marks Act, 1999*. The applicant's product which is admittedly a mixture of juices is not similar to the products included in the above said entries and hence will not fall within scope of the above said entries.

9. Entry 84(33) of the Third Schedule relied on by the applicant reads:

**84      *Meat (other than poultry), fish, sea food, egg, fruits and vegetables processed and preserved***

(33) *Fruits, nuts and other edible parts of plants (other than cashew nut roasted, salted or roasted and salted) otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified*

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The applicant has also relied on the decision of the Kerala Value Added Tax Appellate Tribunal, Ernakulam in T.A. VAT No. 744/2011 dated 30/9/2011 wherein it was held that *Dehydrated Mango Bar and Pineapple Bar fall under Entry 84 (32 or 33) of the Third Schedule to the Act and exigible to tax at the rate of 4% to support his contention that 'Cool Cane' would fall under Entry 84(33) of the Third Schedule.*

10. The HSN Code 2008 appearing in Entry 84(33) of the Third Schedule deals with fruit and vegetable preserves only and the impugned product which a *mixture of juices* cannot be included within in the ambit of the said HSN Code. As such, the Appellate Order relied on by the applicant is not relevant with respect to the issue at hand.

11. The applicant's product viz. 'Cool Cane' is admittedly a *mixture of juices*. Fruit juices and vegetable juices are classified under the HSN Code 2009 and the HSN 2009.90.00 specifically takes within its ambit *Mixtures of juices* and hence the applicant's product which is a mixture of *juice extracted from sugar cane and natural lemon extract / juice* can rightly be classified in the said HSN Code.

12. The HSN Code 2009 does not appear in any of the Schedules to the Kerala Value Added Tax Act. No other entry in any of the Schedules to the Act is suitable for incorporating the commodity.

13. As such, it is clarified that the applicant's product viz. 'Cool Cane' which is admittedly a mixture of *juice extracted from sugar cane and natural lemon extract / juice* would fall under Entry 71(2) of S.R.O. No. 82/2006, taxable at the rate of 14.5%.

The issues raised above are clarified accordingly.

**C. Lalappan**  
Joint Commissioner (A&I)

**P.S. Soman**  
Joint Commissioner (Law)

**T.K. Ziavudeen**  
Joint Commissioner (General)

To

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