

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. Abdul Jabbar.V.K, Joint Commissioner (General), O/o. CCT, Tvpm.*
- 2 T.V. Kamala Bai, Joint Commissioner (Law), O/o. CCT, Tvpm.*
- 3. S.K. Suchala Kumar, Joint Commissioner (Audit & Inspection), O/o. CCT, Tvpm.*

Sub :- KVAT Act, 2003 – Clarification U/s 94 – Rate of tax of rough cast iron articles – Orders issued.

Read:- Application from Sri. Jolly Thomas, M/s. Builtech Metals dtd. 4/10/2011.

ORDER No.C3/33802/11/CT DATED 16/1/2012.

1. Sri. Jolly Thomas, M/s. Builtech Metals, Thodupuzha has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003, seeking clarification on the rate of tax of articles made from castings - non-malleable cast iron.

2. The applicant is a dealer registered under Kerala Value Added Tax Act, 2003 dealing in iron and steel based products. The applicant purchases cast iron articles of different designs in single pieces for resale. The applicant contends that these products/articles are castings of non – malleable cast iron and would fall under Entry 20(1) the Third Schedule with the HSN Code 7325.10.00 and is taxable at 4%.

3. The applicant contends that taxation is based on the form of the underlying metal and as per Central Sales Tax Act, 1956, also the basic form of the material only is relevant. Section 14 of the Central Sales Tax Act, 1956 gives list of goods of special importance or declared goods, which includes various types of iron and steel based items. Further Section 15 therein puts restriction on States' taxation on declared goods. As per Section 15(a) of the Central Sales Tax Act, 1956 the State Government cannot tax declared goods at a rate exceeding 4%. The applicant would further contend that cast iron castings is cast iron and

hence declared goods through the decision of the Apex Court in **Vasantham Foundry Vs Union of India & Ors [AIR 1995 SC 2400]**.

4. The applicant has also referred the clarification order No. C7.33095/05/CT dated 07.07.06 wherein the Commissioner had held that ***Casted raw form of grills and machinery parts are not falling in Entry 20 of the Third Schedule because this is a commercially distinct and different product not elsewhere classified in any of the Schedule to the VAT Act. Hence the item is taxable at 12.5% under RNR category.***

The applicant contends that the decision was unilateral and need to be looked afresh and decided on the basis of the merits of the facts and arguments. The applicant has requested to clarify the rate of tax on cast iron articles.

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

6. The applicant has sought a clarification on the rate of tax of cast iron articles of different designs in single pieces. The applicant has produced photographs of the same and they are ornamental pieces of cast iron normally used in fences, gates, grills, railings etc. They had produced the samples before the authority. It is found that they are rough castings of ornamental pieces of cast iron. The earlier clarification order issued by the Commissioner cited supra did not examine Entry 20(1) of the Third Schedule to the Kerala Value Added Tax Act, 2003. Entry 20(1) of the Third Schedule reads:

20	<i>Castings of all metals</i>	
	<i>(1) of non-malleable cast iron</i>	<i>7325.10.00</i>

7. As per the Customs Tariff Act, the broad HSN Code 7325 relates to **Other cast articles of iron or steel** and the eight digit HSN Code 7325.10.00 specifically relates to **of non malleable cast iron**.

8. **Casting** is a manufacturing process by which a liquid material is usually poured into a mould, which contains a hollow cavity of the desired shape, and then allowed to solidify. The solidified part is also known as a casting, which is ejected or broken out of the mould to complete the process. Casting materials are usually metals or various *cold setting* materials. Casting is most often used for making complex shapes that would be otherwise difficult or uneconomical to make by other methods.

9. Copies of the invoices furnished by the applicant would show that the purchases are made from a foundry which indicates that the impugned commodity covered by the specimen invoice is rough castings. It is clarified that the commodities dealt with by the applicant are rough castings which are not finally worked out like machining etc. and hence the commodity would fall within the definition castings of non malleable cast iron appearing in Entry 20(1) of the Third Schedule to the Kerala Value Added Tax Act, 2003 and would be taxable at 4%. Clarification order No. C7.33095/05/CT dated 07.07.06 stands modified to the above extent.

The issue raised above is clarified accordingly.

Abdul Jabbar.V.K.
Joint Commissioner (General)
O/o CCT

T.V. Kamala Bai
Joint Commissioner (Law)
O/o CCT

S.K. Suchala Kumar
Joint Commissioner (A&I)
O/o CCT

To,

1. Sri. Jolly Thomas,
M/s. Builtech Metals,
Karimkunnam. P.O.,
Thodupuzha.

2. M/s. Taj Exports,
Mundur,
Thrissur.