DEPARTMENT OF COMMERCIAL TAXES, KERALA
PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION

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 on SAS Paper Leaf falling under HSN Code 4811.59.00 - Orders issued.

Read : Application from Sri. C.M.A. Jabbar, Manjeri dtd. 19/12/2013.


1. Sri. C.M.A. Jabbar, Manjeri has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax on SAS paper leaf.

2. The applicant submits that the manufacturers of SAS paper leaf, M/s. S.A. Safiullah & Co., Pudukkottai, purchase duty paid laminated sheets (one side) falling under HSN Code 4811.59.00 and the same are embossed with wave pattern and cut into smaller size and shape resembling a banana leaf and is then sold as paper leaf, tiffin paper, packing/parcel paper under the brand name SAS Leaf.

3. The applicant placing reliance on the Order No. 01/2010(C.EX) dtd. 5/3/2010 of the Commissioner of Central Excise & Service Tax, Thiruchirapalli would contend that the impugned goods are classified under the HSN 4811.59.00. The applicant would also contend that as per the Rules of Interpretation and the judgment in Reckitt Benckiser (India) Ltd. Vs. CCT & Ors (2008) 15 VST 10(SC), the four digit HSN 4811 which appears in the Third Schedule to the Act includes all the commodities coming under that heading of the HSN. So the impugned commodity which is cleared under the HSN Code 4811.59.00 would be covered by Entry 96(12) of the Third Schedule. The applicant has requested to clarify the rate of tax of SAS paper leaves.

4. Adv. S. Anil Kumar, the authorised representative of the applicant was heard in the matter and the contentions raised were examined.

5. The gist of the Order No.01/2010(C.EX) dated 5/3/2010 of the Commissioner of Central Excise & Service Tax, Thiruchirapalli produced by the applicant is as follows:

M/s. SAS & Co. Pudukkottai had Central Excise Registration for the manufacture of one side poly coated paper embossed and cut to different shapes resembling ‘banana leaf’. They used to manufacture one side poly coated paper and after embossing thereon, cut and sized to give the resemblance of a banana leaf and cleared the same as SAS Paper
Leaf on payment of duty classifying the same under CET SH No. 48115900 from 17/12/2004 to 31/3/2008.

From 1/4/2008 they started receiving duty paid laminated sheets (one side) falling under CSH 4811.59.00 and the same were embossed with wave pattern and cut into smaller size and shape resembling a banana leaf / rectangle / square and sold as paper leaf, tiffin paper, packing / parcel paper under the brand name SAS paper leaf, in packets.

But the Department proposed collection of duty on the impugned product on the basis that these activities would amount to manufacture. It was also proposed to classify the product under Chapter Heading 4823.69.00 w.e.f. 1/4/2008.

The questions that arose for consideration were:

i. Whether the above activity amounts to manufacture?

ii. What could be the correct classification of the impugned item ‘SAS Paper Leaf’?

It was held that, mere slitting or cutting of such paper into required sizes would not amount to manufacture. It was also held that the process of cutting and embossing done on one side poly coated paper in the instant case would not amount to manufacture. In as much as the said processes do not amount to manufacture, reclassifying the product under a different heading 4823.69.00 is not warranted.

6. In view of the order stated supra, it can safely be concluded that the impugned commodity viz. SAS paper leaf can be classified under the HSN Code 4811.59.00.

7. The four digit HSN 4811 appears in Entry 96(12) of the Third Schedule to the Kerala Value Added Tax Act, 2003, which is extracted hereunder:

96 Paper, Newsprint and other paper products
(12) Paper, paper board, cellulose wadding and webs of cellulose fibres, coated, impregnated, covered, surface-coloured, surface decorated or printed, in rolls or rectangular (including square) sheets, of any size other than goods of the kind described in headings 4803, 4809 or 4810

8. In view of the Rules of Interpretation appended to the Schedules and the facts stated supra, it is clarified that the commodity ‘SAS Paper Leaf’ classified under the HSN Code 4811.59.00 would be taxable at the rate of 5% by virtue of Entry 96(12) of the Third Schedule to the Kerala Value Added Tax Act, 2003.

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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