

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 on Mispa Nano, Mispa Plus, Mispa Uriskan - 100, Mispa Uno, Mispa Clog, Mispa-i, BC - 3000 Plus, Biolis 24i and i-Smart 30 Analyzer - Orders issued.

Read :- Application from M/s. Agappe Diagnostics Ltd., Pattimattom dtd. 21/12/2011.

ORDER No.C3/43621/11/CT DATED 13/4/2012.

1. M/s. Agappe Diagnostics Ltd., Pattimattom, Ernakulam has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax of the commodities viz. Mispa Nano, Mispa Plus, Mispa Uriskan - 100, Mispa Uno, Mispa Clog, Mispa-i, BC - 3000 Plus, Biolis 24i and i-Smart 30 Analyzer.

2. The applicant is engaged in the manufacture and trading of diagnostic re-agents and equipments such as Automated Clinical Chemistry Analysers, Blood Cell Counters, Sodium Potassium Analysers, Urine Analysers, Coagulation Analysers etc. The applicant imports equipments also. The applicant's equipments are used in diagnostic pathological laboratories for identifying different parameters like SGOT, Glucose, Cholesterol, WBC, HGB, PLT etc. in human blood.

3. The applicant contends that the trade names of the commodities on which clarification has been sought are as follows:

Mispa Nano	-	Automated Clinical Chemistry Analyzer
Mispa Plus	-	Automated Clinical Chemistry Analyzer
Mispa Uriskan -100	-	Automated Urine Chemistry Analyzer
Mispa Uno	-	Automated Clinical Chemistry Analyzer
Mispa Clog	-	Automated Coagulation Analyzer
Mispa-i	-	Automated Serum Protein Analyzer
BC - 3000 Plus	-	Automated Hematology Analyzer
Biolis 24i	-	Automated Clinical Chemistry Analyzer
i-Smart 30 Analyzer	-	Automated Electrolytic Analyzer.

4. The applicant would further contend that they are purchasing the above said items from abroad and are importing them to India. The Customs Authorities have been classifying these items as coming under the HSN Code 9027.80.90.

5. The applicant has referred Entry 59A of the Third Schedule to the Kerala Value Added Tax Act, 2003 and the Rules of Interpretation appended to the Schedules and contends that if sale is effected in Kerala, the said entry would be applicable to them. The applicant has requested to clarify the rate of tax of the commodities.

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

7. As per the copies of the literature describing the functions of these equipments produced by the applicant at the time of hearing, the above said equipments are used for diagnostic purposes. The applicant has also submitted copies of the Bill of Entry covering the above said products and the HSN Code mentioned therein is 9027.80.90.

8. The HSN Code 9027.80.90 as per the Central Excise Tariff Act reads as follows:

9027 INSTRUMENTS AND APPARATUS FOR PHYSICAL OR CHEMICAL ANALYSIS (FOR EXAMPLE, POLARIMETERS, REFRACTOMETERS, SPECTROMETERS, GAS OR SMOKE ANALYSIS APPARATUS); INSTRUMENTS AND APPARATUS FOR MEASURING OR CHECKING VISCOSITY, POROSITY, EXPANSION, SURFACE TENSION OR THE LIKE; INSTRUMENTS AND APPARATUS FOR MEASURING OR CHECKING QUANTITIES OF HEAT, SOUND OR LIGHT (INCLUDING EXPOSURE METERS); MICROTOMES

9027 80 90 --- Other

9. Entry 59A of the Third Schedule to the Kerala Value Added Tax Act, 2003, reads:

59A All medical and diagnostic equipments and Hospital instruments, apparatus, appliances, tools and aids used exclusively in medical, surgical, dental, physiotherapy and veterinary sciences and spares and parts thereof

10. No particular HSN Code has been provided in the said Entry. As such the commodities bearing the HSN Code 9027.80.90 which are used for diagnostic purposes can be included within the ambit of Entry 59A of the Third Schedule to the Kerala Value Added Tax Act, 2003. Hence it is clarified that the commodities viz. Mispa Nano, Mispa Plus, Mispa Uriskan - 100, Mispa Uno, Mispa Clog, Mispa-i, BC - 3000 Plus, Biolis 24i and i-Smart 30 Analyzer bearing the HSN Code 9027.80.90 which are equipments used for diagnostic purposes would be taxable at the rate of 4% as on the date of the application, by virtue of Entry 59A of the Third Schedule to the Kerala Value Added Tax Act, 2003.

The issues raised above are 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,

M/s. Agappe Diagnostics Ltd.,
Agappe Hills, Pattimattom P.O.
Ernakulam.