

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. Suchala Kumar. S.K.
Joint Commissioner (General),
Office of the Commissioner of Commercial Taxes,
Thiruvananthapuram.

2. C. Lalappan.
Joint Commissioner (Audit & Inspection),
Office of the Commissioner of Commercial Taxes,
Thiruvananthapuram.

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

Sub: KVAT Act, 2003 – Clarification U/s. 94 – Rate of tax of 600VA and 2.5KVA Home UPS manufactured by M/s. Whirlpool of India Ltd. – Orders issued.

Read: 1. Application from Sri. P.J. Johney, Chartered Accountant, Kochi dtd. 19/2/2013.
2. Letter No. B4-21093/2013/CEI of the Chief Electrical Inspector, Department of Electrical Inspectorate, Kerala, Thiruvananthapuram dtd. 26/11/2013.

ORDER No.C3/5136/13/CT DATED 27/5/2014.

1. Sri. P.J. Johney, Chartered Accountant, Kochi has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax of the product Home UPS manufactured by M/s. Whirlpool of India Ltd.

2. The applicant would contend that the proper meaning of Inverter is a device which converts DC into AC. When power fails the inverter will deliver power by switching from main source to battery source. The switching time here is normally greater than 20Ms. A sensor and relay mechanism checks whether the mains is ON or OFF. When the main switches OFF, the relay actuator triggers to switch from mains to inverter. Because of this sensor and relay, there is a gap between triggering. But Home UPS is a device, which delivers power, even if the

source power fails (Uninterrupted Power Supply). The switching time from the main source to the backup source is less than 10 Ms, so that the computer hard drives or sensitive power products are not affected.

3. The applicant would further contend that the normal computer rebooting time is 16.66 Ms. So a device below 16.66 Ms meets the requirements of UPS, and hence the impugned product which is less than the said limit is UPS only.

4. The applicant placing reliance on the Order No.C3/20085/11/CT dated 30/11/2012, would contend that the product in question is similar to the product discussed therein, whereby it was clarified that *the commodity Home UPS 850 VA, manufactured by M/s American Power Conversion Corporation (APC) with model number BI850SINE would be taxable at the rate of 5% by virtue of Entry 69(27) of the Third Schedule to the Kerala Value Added tax Act, 2003.*

5. The applicant has requested to clarify the rate of tax of the commodity.

6. The applicant was heard and a live demonstration of the product was also conducted in the presence of Electrical Inspector, Meter Testing & Standards Laboratory, Department of Electrical Inspectorate, Thiruvananthapuram on 6/11/2013.

7. The Chief Electrical Inspector, Department of Electrical Inspectorate, Kerala vide his letter read as paper 2nd above has forwarded the report of the Electrical Inspector, Meter Testing & Standards Laboratory, Department of Electrical Inspectorate, Thiruvananthapuram which, as relevant to the context is extracted hereunder:

' As directed we have attended the O/o the Commissioner of Commercial Taxes, Tax Towers, Killipalam, Thiruvananthapuram to witness the demo of the Home UPS manufactured by M/s. Whirlpool India Ltd on 6/11/2013. The demo of 600 VA UPS, model 'Gold' was witnessed, but they couldn't conduct the demo of 2.5KVA UPS, model 'Neptune' as no adequate load and battery were available with them. So as directed by the Joint Commissioner, they have attended this office on 12/11/2013 along with the 2.5KVA UPS, adequate battery and load. But the performance of the same could not be verified due to some internal fault of the equipment brought for demo. So as instructed they again attended this office on 19/11/2013 along with the same model 2.5KVA UPS and all accessories to conduct the demo. After witnessing the demo and based on the test conducted by us we have arrived at the following conclusion.

Both UPS brought by M/s. Whirlpool Company, (the 600VA demonstrated in the Office of the Commissioner and the 2.5KVA demonstrated in this office) are working as Uninterrupted Power Supply. When the input voltage falls outside the limits specified by the manufacturer (180V to 265V) or disappears, the UPS switches over to battery mode providing continuous regulated supply to load. The switching transfer from mains to battery is within milliseconds applicable to this type of off-line UPS. Since this transfer is occurring in milliseconds, the user will not get even

a feel of it. Also the outputs of both models are sinusoidal as specified by the manufacturer. So the home UPS brought for demo as the name signifies permits the user to safely operate critical loads such as computers without rebooting and other recommended house hold appliances. So, it is confirmed that the equipments demonstrated by M/s. Whirlpool Company under the trade name 'H-UPS' may be treated as un-interrupted power supply for home appliances as claimed by them.'

8. Subsequently, as the members of the Authority for Clarification had changed, the applicant was once again heard and the contentions raised were examined.

9. As such, considering the contentions raised and the report of the Chief Electrical Inspector, Department of Electrical Inspectorate, Government of Kerala it is clarified that the commodities 600 VA UPS with the name 'Gold' and the 2.5KVA UPS with the name 'Neptune' manufactured by M/s Whirlpool of India Ltd., would be taxable at the rate of 5% by virtue of Entry 69(27) of the Third Schedule to the Kerala Value Added Tax Act, 2003 up to 31/3/2014 (14.5% by virtue of Entry 103 of S.R.O. No. 82/2006, w.e.f. 1/4/2014).

The issues raised above are clarified accordingly.

Suchala Kumar. S.K
Joint Commissioner (General)

C. Lalappan
Joint Commissioner (A&I)

P.S. Soman
Joint Commissioner (Law)

To,

Sri. P.J. Johney FCA,
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