

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 Base Oils - Orders Issued.

Read:- Application from M/s. Cochin Petromins Pvt. Ltd., Kochi, dated 5/10/10.

ORDER No.C3/33126/10/CT DATED 20/9/2011.

1). M/s. Cochin Petromins Pvt. Ltd., Kochi, has preferred an application U/s 94 of the Kerala Value Added Tax Act, 2003 seeking clarification on the rate of tax on Base Oils.

2). The applicant contends that Base Oil is the name given to lubrication grade oils initially produced from refining crude oil (mineral base oil) or through chemical synthesis (synthetic base oil). Base Oil is typically defined as oil with a boiling point range between 550 and 1050 F, consisting of hydrocarbons with 18 to 40 carbon atoms. This oil can be either paraffinic or naphthenic in nature depending on the chemical structure of the molecules. Base Oil is one of the raw materials used for the production of lubricants.

3). The applicant would further contend that Chapter 27 of the Customs Tariff Act, 1975 deals with Mineral fuels, mineral oils and products of their distillation; bituminous substances and mineral waxes. The HSN Code 2710.19.60 deals with Base Oil only. This HSN is mentioned in Entry 135 of List A of the Third Schedule to the Kerala Value Added Tax Act, 2003 which reads:

135 Rubber process oil/ Mineral oil

2710.19.60

4). The applicant contends that the commodity name is narrated as Rubber process oil/ Mineral oil against the said HSN instead of the narration of Base Oil as given in the Customs Tariff Act. The applicant placing reliance on the Rules of Interpretation of Schedules to the Act contends that '*those commodities which are given with HSN number should be given the same meaning as given in the Customs Tariff Act.*' The applicant also contends that '*the commodities which are given eight digit HSN Number shall mean that commodity which bears that HSN Number*'. The applicant contends that in the light of the above, since Base Oil stands against HSN 2710.19.60 in the Customs Tariff Act, Base Oil falls within the ambit of Entry 135 of the List A of the Third Schedule and is taxable at 4%VAT.

5). The applicant has requested to clarify the rate of tax of the commodity, Base Oil.

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

7). Chapter XXVII of the Customs Tariff Act deals with *Mineral fuels, mineral oils and products of their distillation; bituminous substances and mineral waxes*. Mineral oils would mean oils of non - vegetative origin. The four digit HSN 2710 deals with *Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations; waste oils*.

8). Hence the commodity Base Oil specified in the HSN Code 2710.19.60 is mineral oil and, mineral oils which fit the description of Base Oil with HSN Code 2710.19.60 would fall under Entry 135 of List A of the Third Schedule to the Kerala Value Added Tax Act, 2003, and would be taxable at 4%.

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