



**PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND
ADVANCE RULINGS UNDER SECTION 12-C OF THE KARNATAKA TAX ON
ENTRY OF GOODS ACT, 1979**

PRESENT

- (1) Sri M.D.JAIN,
Addl. Commissioner of Commercial Taxes,
(Head Quarters)-1, Bangalore and Chairman.
- (2) Sri H.D.Arunkumar,
Addl. Commissioner of Commercial Taxes,
(Policy & Law), Bangalore and Member.
- (3) Sri R.Jagadish Prasad,
Addl. Commissioner of Commercial Taxes,
(GST), Bangalore and Member.

NAME AND ADDRESS
OF THE APPLICANT

: Sri Vishwanath S. Laturkar,
M/s. Sri Bhavani Enterprises,
Navipeth, Ramdurg -591123

TIN

: 29230049598

JURISDICTIONAL
ASSESSING AUTHORITY

: ACCT, LVO-410, Bailahongal

REPRESENTED BY

: Nobody represented the Applicant

ORDER NO.AL.R.CLR.CR-24/12-13 DATED 14-05-2013

M/s. Sri Bhavani Enterprises, Ramdurga borne on the files of ACCT, LVO-410, Bailahongal having TIN 29230049598 ('the Applicant', for short) has filed an application in Form 43 dated 30-06-2012 under Section 12-C of the KTEG Act, 1979. The Applicant is engaged in trading of sewing machines. Sri Vishwanath Shivajirao Laturkar, Applicant in his letter dated 24-04-2013 has requested to issue clarification without insisting for his presence. Accordingly the matter is taken up for making a decision on merits.

The Applicant contends that 'Sewing Machines' are separately enumerated in III Schedule of KVAT Act, 2003 and all kinds of Machinery (other than sewing machines) are covered by residual entry and therefore sewing machines cannot be considered as a Machinery to levy tax under Entry No.7 of Notification No. FD-11 CET 2002 dated 30-03-2012.

The matter is examined. The relevant entry of 2002 Notification reads as under:

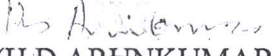
| Sl. No. | Commodity | Rate of tax |
|---------|--|-------------|
| (7) | Machinery (all kinds) and parts and accessories thereof but excluding agricultural machinery | 2% |

The legislature has authorised to levy tax on any items by issue of Notification on such of the items as specified in the First Schedule of the KTEG Act, 1979. Machineries of all kinds excluding agricultural machinery is specified under Entry No.52. of the First Schedule. Sewing Machines are not specifically enumerated in the First Schedule and therefore the sewing machine is covered under Entry No.52 of the First Schedule. Thereby, the Entry No.7 of the said Notification which covers all kinds of machineries includes sewing machine. Therefore, sewing machines are to be treated as Machineries liable to tax at 2%.

The contention taken by the applicant that 'sewing machines' are separately enumerated in III Schedule of the KVAT Act, 2003 and therefore sewing machines cannot be regarded as 'Machinery' for the purpose of levy of tax under the KTEG Act, 1979 cannot be accepted for the reason that Entry No.54 of the KTEG Act, 1979 specifies all kinds of machineries without there being any exclusion for the sewing machines. If there is any ambiguity in the classification of the entries in the KTEG Act, 1979 then only it is permissible to refer to the entries in the KVAT Act, 2003 or KST Act, 1957. Thus, there is no need to refer to the entries relating to machineries covered under KST Act, 1957 or KVAT Act, 2003. Further, 'agricultural machineries' are excluded from all kinds of machinery whereas sewing machines are not excluded from all kinds of machinery and therefore it is not permissible to hold that sewing machines are not machineries. In view of this analysis, we have no hesitation to hold that sewing machines are covered under all kinds of machineries falling under Entry No.7 of 2002 Notification and liable to tax at 2%.

Hence the following order:

In view of the circumstances explained above, this Authority clarifies that the 'sewing machines' are covered under 'all kinds of machineries' of Entry No.7 of Notification No. FD 11 CET 2002 dated 30-03-2012 and liable to tax at 2% under KTEG Act, 1979.


(H.D.ARUNKUMAR)

Member


(R.JAGADISH PRASAD)

Member


(M.D.JAIN)

Chairman

Clarification & Advance Ruling Authority
Gandhinagar, Bangalore-9

Copy to:

- (1) The Applicant,
- (2) ACCT, LVo-490, Bailahongal
- (3) Submitted to the Commissioner of Commercial Taxes, (Karnataka), Bangalore.
- (4) Office copy.