

PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND ADVANCE RULINGS UNDER SECTION 60 OF THE KARNATAKA VALUE ADDED TAX, 2003 AND RULES 164 AND 165 OF THE KARNATAKA VALUE ADDED TAX RULES 2005

: (1) M.D. Jain,
Additional Commissioner of Commercial Taxes
(Head Quarter)-1, Bangalore and chairman.

: (2) H. D. Arunkumar,
Additional Commissioner of Commercial Taxes,
(Policy & Law), Bangalore and Member.

: (3) R. Jagadeesh Prasad,
Additional Commissioner of Commercial Taxes,
(GST), Bangalore and Member.

NAME AND ADDRESS OF THE APPLICANT : M/s. STP Limited,
No.36, Mission Road,
Bangalore-560027.

TIN : 29330138880

JURISDICTIONAL ASSESSING AUTHORITY : LVO-111, B'lore.

REPRESENTED BY : Sri. Shivakumar, Authorised Representative

ORDER NO.AL.R.CLR.CR-31/12-13, DATED: 10-09-2013

1. M/s. STP Limited, No.36, Mission Road, Bangalore-560027 borne on the files of LVO-111 B'lore having TIN: 29330138880 ("the applicant" for short) has filed an application in Form VAT-540 dated: 02-08-2012 under section 60 of the KVAT Act, 2003. The applicant company deals in construction chemicals like water proofing agents, water proofing felt, etc. One of the products manufactured and marketed by STP Ltd is 'Shalcrete', which is manufactured from Primary Acrylic Polymers by charging it's viscosity.

2. The Applicant Company buys Acrylic Polymers in primary form and changes its viscosity to make it easy for application. The product is a bonding and waterproofing agent for repair work. The product is used for bonding plaster to ensure durable finish of exterior walls, bonding new concrete to damp/dry concrete, making mortar for repairing and for waterproofing., The Applicant is seeking clarification as to whether this product falls under entry Sl.No 51 of the Third Schedule to the Karnataka VAT Act, 2003

read with Sl. No.138 of the Table in the Notification No.FD.55/CSL/2005(8) dated: 23-03-2005 which reads as "Acrylic Polymer in primary forms".

3. The applicant's authorised Representative Sri. Shivakumar appeared before the Authority on 31-05-2013 and argued the case on the lines of written submission in the application and further submitted as that:-

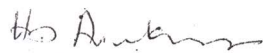
"Some of the companies are engaged in manufacture and sale of some product with their own brand name and charging VAT at 5% treating it as industrial inputs as prescribed in the entry no.51 of the Third Schedule read with Sl.No.58. Where as some companies are charging higher rate of VAT at 14.5%."

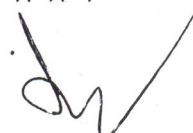
4. In his report called for on the application made the Joint Commissioner of Commercial Taxes (Admn), VAT Division-3, Bangalore has stated that verification of the 'Material Safety Data Sheet' that the product is manufactured by "mixing of additives" and the applicant has not disclosed the details of the additives on the ground that it is trade secret. He further states that Acrylic Polymer changes its form from primary form to a compound due to the change of viscosity and since the Acrylic Polymer changes its viscosity and additives are added, it becomes in new chemical compound other than "the Acrylic Polymer in primary form". Hence he concludes that the applicant's product cannot be treated as "Acrylic Polymer in primary form" which is notified under notification for reduced rate of tax of 5.5%.

5. This Authority after examining the facts of the case is inclined to concur with the opinion expressed by the Joint Commissioner of Commercial Tax as the applicant has not produced any evidence to say that his product is 'Acrylic Polymer' in primary form and not product manufactured out of 'Acrylic Polymer'.

6. In view of the above discussions, the authority hereby clarifies the product under consideration does not fall under entry no.51 of the Third Schedule to the Karnataka VAT Act, 2003 read with item 138 of the Table in the Notification No.FD.55/CSL/2005(8) dated: 23-03-2005 which reads as "Acrylic Polymer in primary forms" but liable to tax at 14.5% under section 4(1)(b)(iii) of the KVAT Act 2003.


(R. Jagadeesh Prasad)
Member


(H.D. Arunkumar) 24/9/13
Member


(M.D. Jain)
Chairman

Clarification & Advance Ruling Authority
Gandhinagar, Bangalore-9

Clarification & Advance Ruling Authority
Gandhinagar, Bangalore-9

Clarification & Advance Ruling Committee
Gandhinagar, Bangalore-9

- Copy to:
- (1) The Applicant.
 - (2) The LVO-111, Bangalore.
 - (3) Submitted to the Commissioner of Commercial Taxes (Karnataka), Bangalore.