



M/s.Amalgamated Bean Coffee Trading Co Ltd, Bangalore

AR.CLR.CR.06/13-14

**PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND ADVANCE RULINGS UNDER SECTION 60 OF THE KARNATAKA VALUE ADDED TAX ACT, 2003 READ WITH RULES 163 TO 165 OF THE KARNATAKA VALUE ADDED TAX RULES, 2005**

PRESENT

- : (1) M.D.Jain  
Additional Commissioner of Commercial Taxes (Head Quarters-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 (Goods and Service Tax), Bangalore and Member

NAME AND ADDRESS OF THE APPLICANT

: M/s.AMALGAMATED BEAN COFFEE TRADING COMPANY LIMITED, 23/2, 6<sup>th</sup> Floor, Coffee Day Square, Vittal Mallya Road, Bangalore-560 001

TIN

: 29670260719

JURISDICTIONAL ASSESSING AUTHORITY

: ACCT, LVO-20, Bangalore

REPRESENTED BY

: Sri S. Vishnu Murthy, Chartered Accountant and duly authorized representative.

**ORDER NO.AR.CLR.CR.6/2013-14, DATED 17.9.2013**

1. The applicant is a dealer registered under the KVAT Act, 2003 ('the Act' for short) with TIN 29670260719, engaged in the business of sale of coffee by effecting purchase of raw coffee from growers, who are unregistered persons. The applicant has sought clarification on its liability to pay tax under Section 3(2) of the Act when coffee is purchased from growers, who are not liable to tax on the sales made by them to the applicant, by virtue of the growers not being dealers and also by virtue of the fact that sale by growers is not in the course of business. The applicant's understanding is that since sale of coffee by growers to applicant is in the course of carrying on of an agricultural activity and is not in the course of carrying on any business activity, it is not a sale in the hands of growers and

consequently such sale is not taxable under the Act and no tax is payable on such sale. When applicant purchases coffee from such growers who are not liable to pay tax, applicant is also not required to pay any VAT on such purchases.

2. In support of its understanding, the applicant has made the following submissions:

- a) The activities of cultivating, growing and selling of coffee by coffee growers are only agricultural activities and not business activities and sale of coffee by such growers is a part of agricultural activity and not business activity. Hence, such sale would not be a sale as defined under the provisions of the Act and does not attract levy of VAT.
- b) When a sale is effected by a registered dealer, the liability to pay VAT on such sale is on the registered dealer himself. But when a sale is effected by an unregistered dealer, the liability to pay VAT on such sale is on the registered dealer to whom such sale is made. Consequently, when a non-taxable sale is effected by an unregistered grower, the registered dealer to whom such sale is made is not required to pay any VAT.

3. The applicant's authorised representative Sri S.Vishnu Murthy, Chartered Accountant appeared before the Authority and he is heard. He re-iterated the submissions made in the application.

4. The Joint Commissioner of Commercial Taxes (Administration), DVO-1, Bangalore, whose opinion was called for on the subject, has opined that though sale by agriculturists is not in the course of business, it cannot be said that the said transaction is not taxable under the Act in the hands of the purchaser and the same shall be subjected to tax in the hands of the purchaser, under the circumstances contemplated under Section 3(2) of the Act.

5. We have deliberated deeply the issue raised by the applicant.

(1) Section 3(2) of the KVAT Act, 2003 reads as follows:-

