

No.C7-28429/06/CT

Office of the Commissioner
Commercial Taxes
Thiruvananthapuram
Dated. 28-7-06

Circular No.26/06/CT

Sub: Issues relating to medicines under compounding-reg

It is noticed that many dealers in medicine who have opted for payment of tax on medicines under section 8(e) of KVAT Act 2003 are paying tax in respect of non-medicinal items dealt with by them at 0.5% claiming that they are eligible for the payment of presumptive tax under section 6(5) of the Act. This is quite irregular.

As per section 8(e) of KVAT Act 2003, only first sellers such as importers (ie. those who purchase medicines from outside the State) and manufacturers of medicine who are not entitled to deferment under section 32 alone, are eligible to pay compounded tax at MRP rate.

Only medicines whose MRP has been fixed by Government falling under Entry 36 of Third Schedule can be opted for compounding under section 8(e). So bulk drugs, diagnostic items, etc mentioned in entry 36 of Third Schedule fall outside the purview of section 6(5).

First sellers of medicines will not eligible for payment of presumptive tax in respect of non-medicinal items whether they have opted for compounding or not.

But a second seller in medicine purchasing these items from a dealer under compounding is exempted from payment of tax in respect of sale of such medicine. Such turnover of medicines purchased at MRP rate will not be included in his total turnover for determining his eligibility to opt for the presumptive tax facility under section 6(5).

All concerned may further note that as per the changes proposed as per the Finance Bill, 2006, in section 6(7) and 11(13), all medicines and drugs, whether or not under compounding, on which tax has been paid under the KGST Act and held as opening stock as on 1.4.2005 shall be exempted from tax under KVAT Act 2003; likewise no input tax credit is allowable on such items. So any output tax collected on such items shall be forfeited to Government and any input tax credit availed on such stock shall be disallowed.

All officers are directed to note this position of law while scrutinizing the returns held by medicines dealer.

Commissioner