

**GOVERNMENT OF KARNATAKA
(Department of Commercial Taxes)**

**PROCEEDINGS OF THE COMMISSIONER OF COMMERCIAL TAXES
CLARIFICATION UNDER SECTION 59(4) OF THE
KARNATAKA VALUE ADDED TAX ACT, 2003**

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Sub: KVAT Act, 2003 – Issue of clarification on rate of tax applicable to 'HDPE Vermi Compost Bed' – reg.

Ref: 1. Clarification No. CLR/CR-99/2012-13 dated 09.11.2012.

2. Application dated 04.8.2012 of M/s Udayakumar Marketing, Bangalore (TIN-29790587737) seeking clarification.
3. Order of the Hon'ble High Court of Karnataka dated 06.02.2013 in WPN.5492/2013(T-RES).

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In the application dated 04.08.2012 M/s Udayakumar Marketing, D.No.1606, 12th Main, Sahakara Nagar, Near Ganesha Temple, Bangalore – 560 092 had sought clarification under Section 59(4) of the KVAT Act, 2003, on the rate of tax applicable to 'HDPE Vermi Compost Bed'.

2. Considering that the said goods is not specified in any of the Schedule to the Act, it was clarified that 'HDPE Vermi Compost Bed' is liable to tax at the rate of 14.5% from 01.08.2012 under Section 4(1)(b)(iii) of the Act vide clarification order No.CLR/CR-99/2012-13 dated 09.11.2012.

3. Being aggrieved by the clarification dated 09.11.2012, the applicant preferred a writ petition bearing W.P.No.5492/2013 in the High Court of Karnataka challenging the above clarification. The Hon'ble High Court of Karnataka in its order dated 06.02.2013 set aside the clarification and remanded the case to the respondent for reconsideration in accordance with law and to pass a speaking order. The relevant portions of the judgment are extracted hereunder:

"3. On perusal of the impugned order at Annexure-A do not specify the reasons on which the Commissioner stated that 14.5% tax is leviable on the goods in question. The impugned order is not a speaking order. The petitioner is entitled to know the reasons for the levy of tax at a particular rate. Since the impugned order do not contain any reasons the same is liable to be set aside. Accordingly, the following order:-

ORDER

- a. *The petition is hereby allowed.*
- b. *The impugned order – Annexure-A dated 09.11.2012 is hereby set aside.*
- c. *The matter is remanded to the respondent for reconsideration in accordance with law and to pass a speaking order. "*

