



**PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND ADVANCE RULINGS UNDER
SECTION 60 OF THE KARNATAKA VALUE ADDED TAX, 2004 AND RULES 164 AND 165 OF
THE KARNATAKA VALUE ADDED TAX RULES 2005**

PRESENT

- : (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. PVR Bluo Entertainment Limited,
Orion Mall, No.26/1, 80 Feet Road,
Dr. Rajkumar Road, Malleswaram West (PO),
Bangalore-560055.

TIN : 29040646010

JURISDICTIONAL ASSESSING AUTHORITY : LVO-140, Bangalore

REPRESENTED BY : Sri. N. Satish Kalkur, Chartered Account

ORDER NO.AL.R.CLR.CR-39/12-13, DATED: 24-04-2013

M/s. PVR Bluo Entertainment Limited, Orion Mall, No.26/1, 80 Feet Road, Dr. Rajkumar Road, Malleswaram West (PO), Bangalore-560055 borne on the files of LVO-140, B'lore having TIN:29040646010 ("the applicant" for short) has filed an application in Form VAT-540 dated: 31-08-2012 under section 60 of the KVAT Act 2003 (Act for short). The applicant company, a Public Limited Company is registered under KVAT Act 2003 and Karnataka Entertainments Tax Act, 1958. The applicant has opened a 'Bowling alley' in Orion Mall at Brigade Gateway, Bangalore. From the customers who want to play the bowling game, the applicant collects rentals on the shoes which are required for playing the game. The applicant seeks the clarification as to whether the shoe rentals collected from participants is exigible to VAT under the KVAT Act 2003, in terms of provisions of Section 2(29)(d) and if so, the rate of tax applicable.

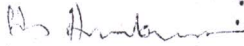
2) The applicant's authorised representative Sri. N. Satish Kalkur, Chartered Accountant of the company, appeared before the Authority on 28-9-2012 made submissions as follows:-

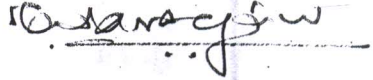
PVR Bluo Entertainment Limited has opened a 'bowling alley' in Orion Mall at Brigade Gateway, Bangalore. During the game players need to wear the shoes. The Company gives shoes for rent to the customers, which are required for playing the above game for better grip, control and comfort and only to the participants desirous of availing such facility. But the applicant doesn't collect any rentals from the participants who have their own bowling shoes. The bowling shoes given on hire should be used only for the purpose of playing the game of bowling in the PVR Bluo bowling alley and the customers/participants should return the same after playing the game.

3) The applicant's application and submissions made are examined. It is evident that the customers are in effective control of shoes during the period that they remain in their possession. Thus the transaction is a transfer of right to use the shoes and falls under the definition of sale under section 2(29)(d) of the Act. The consideration or rent received towards such transaction would be part of the total and taxable turnover of the dealer and liable to tax under section 4 of the Act. The judgment of the Hon'ble Supreme Court in the case of Assarson Brothers Vs. State of Haryana and others (reported in 113 STC page 317) would squarely apply to the appellant's case.

In view of the above discussion, the authority hereby clarifies that the applicant's activity of renting or transfer of the right to use the shoes to the customers for consideration or rental is a 'sale' liable to tax under section 4 of the Act.


(R. Jagadeesh Prasad)
Member


(H.D. Arunkumar)
Member


(M.D. Jain)
Chairman

Copy to:

- (1) The Applicant.
- (2) The LVO-015, Bangalore.
- (3) Submitted to the Commissioner of Commercial Taxes (Karnataka), Bangalore.

Clarification & Advance Ruling Authority

Gandhinagar, Bangalore-9

Clarification & Advance Ruling Committee

Gandhinagar, Bangalore-9