



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

**PROCEEDINGS OF THE COMMISSIONER OF COMMERCIAL TAXES (KARNATAKA),  
BENGALURU.**

Present: RITVIK PANDEY, IAS,  
Commissioner of Commercial Taxes.  
(Karnataka) Bengaluru.

Sub: Clarification U/s 59(4) on rate of tax applicable to  
Gold & silver articles like Ganesha, Saraswathi,  
Sai Baba, holy cross of Jesus etc. – reg.

Ref: Letter dt.23.07.2015 of M/s Shivam Gold & Diamond,  
Bengaluru – 560 040 (TIN – 29660205677).

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**PREAMBLE:**

The applicant M/s Shivam Gold & Diamond, No.49/2, 1<sup>st</sup> Main Road, Marenahalli, Vijayanagar (Opp:Rajhans Textiles), Bengaluru – 560 040 has sought clarification on the rate of tax applicable on Gold and Silver articles like Ganesha, Saraswathi, Sai Baba, Holy cross of Jesus etc., which are in the form of Artwork done using 99.9% pure gold engraved and spread across a wide surface area. These Gold articles in the form of artworks are framed under glass in a Photo frame, which is easier to mount, display and protect the articles.

2. It is the understanding of the applicant that the above gold articles are liable to tax at the rate of 1% vide Sl.No.2 of Second Schedule during the period from 01.04.2005 to 31.03.2011, at 2% in terms of the Notification No.FD 35 CSL 11 (V) dated 29.03.2011 during the period from 01.04.2011 to 31.03.2012 and at 1% vide Notification No.FD 57 CSL 2012 (V) dated 31.03.2012 with effect from 01.04.2012 and onwards. The description of goods covered in the schedule entry and the notification are extracted hereunder:

(a) Description of goods in Sl.No.2 of Second Schedule liable to tax at 1%:

*"Jewellery and articles of gold, silver and other noble metals whether or not studded with precious or semi-precious stones"*

(b) Description of goods in Sl.No.1(i) of Notification No.FD 35 CSL 11 (V) dated 29.03.2011 liable to tax at 2%:

*"1. (i) Jewellery and articles of Gold, Silver and other noble metals whether or not studded with precious or semi-precious stones; and*

*(ii) Precious and semi-precious stones.*

*2. Transfer of property in goods involved in the execution of works contract of manufacturing or processing and supplying of jewellery and articles of gold, silver and other noble metals whether or not studded with precious or semi-precious stones."*

(c) Description of goods in Sl.No.1(i) of Notification No.FD 57 CSL 2012 (V) dated 31.03.2012 liable to tax at 1%:

"1. (i) Jewellery and articles of Gold, Silver and other noble metals whether or not studded with precious or semi-precious stones; and

(ii) Precious and semi-precious stones.

2. Transfer of property in goods involved in the execution of works contract of manufacturing or processing and supplying of jewellery and articles of gold, silver and other noble metals whether or not studded with precious or semi-precious stones."

In support of his understanding, he has produced Bill of entry (Custom clearance bills) of his supplier namely, M/s Pranda Jewellery Pvt. Ltd., Pranda House, Reva Estate, 512-M.G.Road, Mulund (West), Mumbai-400080) who is an importer of the above articles, wherein Central Excise Tariff Heading is shown to be 7114 19 10. The description of the goods under this CET Heading reads thus:

Tariff Item	Description of goods	Unit	Rate of duty
<b>7114</b>	<b>Articles of goldsmiths' or silversmiths' wares and parts thereof, of precious metal or of metal clad with precious metals, - of precious metals whether or not plated or clad with:</b>		
7114 11	Of silver, whether or not plated or clad with precious metal		
7114 11 10	Articles	kg	12%
7114 11 20	Parts	Kg	12%
7114 19	Of other precious metal, whether or not plated or clad with precious metal:		
7114 19 10	Articles of gold	kg	12%

3. The matter is examined.

a) The Purchase invoices produced by the applicant (purchases made from M/s Pranda Jewellery Pvt.Ltd., Mumbai – 400 080) has the commodity description as "Gold Sheet Artwork (Gold Articles laminated and glued 99.90% fine gold – Om Ganesha A-8, Ganesha A-7, Lakshmi A-7, Sai Baba A-7, Ayappa A-7, Krishna A-6, Saraswathi A-7, Balaji A-9, Jesus A-8 etc., where suffixes A-7, A-6, A-8 etc., indicate external dimension of the photo frame. Size A-1, A-2, A-3, A-7, A-8 indicate external dimension of the photo frame as 30" X 36", 26" X 30", 22" X 26", 7" X 6", and 6" X 6" respectively.



b) The word "Article" is not defined under the KVAT Act, 2003. The Apex Court in the case of *Atul Glass Industries (Pvt) Ltd., Vs. Collector of Central Excise* (1986) AIR 1730, (1986) SCR (3) 126, has laid down the following principle as to how a product is identified by the class or section of people dealing with or using the product.

*"It is a matter of common experience that the identity of an article is associated with its primary function. It is only logical that it should be so. When a consumer buys an article, he buys it because it performs a specific function for him. There is a mental association in the mind of the consumer between the article and the need it supplies in his life. It is the functional character of the article which identified it in his mind. In the case of Glass Mirror, the consumer recalls primarily the reflective function of the article more than anything else. It is a mirror, an article reflects images. It is referred to as a glass mirror only because the word glass is descriptive of the mirror in that glass has been used as a medium for manufacturing the mirror. The basic or fundamental character of the articles lies in its being a mirror. It was observed by this court in *Delhi Cloth and General Mills Co. Ltd., Vs. State of Rajasthan and Others* (1980) (3) SCR 1109."*


4) In the instant case, Gold Sheet Artwork of images like Balaji, Ganesha, Lakshmi, Sai Baba made using 99.90% fine gold though framed under glass in a Photo frame, which is easier to mount, display and protect the articles are essentially articles of gold, and hence attract reduced tax rate of 1% in terms of the Notification No.FD 57 CSL 2012 (V) dated 31.03.2012 w.e.f: 01.4.2012.

5) In the light of the above discussion, the following clarification is issued.

**CLARIFICATION NO.CLR.CR.147/2014-15 DATED: 19-08-2015**

It is clarified that "Gold Sheet artwork of images like Ganesha, Saraswathi, Sai Baba, Holy Cross of Jesus, Radhakrishna etc., framed under glass in a photo frame" falls within the ambit of description of goods – "*Jewellery and Articles of Gold, Silver and other noble metals whether or not studded with precious or semi-precious stones*" are liable to tax at the following rates:

- i) At the rate of 1% during the period from 01.04.2005 to 31.03.2011 vide Sl.No.2 of Second Schedule to the KVAT Act, 2003.
- ii) At the rate of 2% in terms of Notification No.FD 35 CSL 11 (V) dated 29.03.2011 during the period from 01.04.2011 to 31.03.2012.
- iii) At the rate of 1% in terms of Notification No.FD 57 CSL 2012 (V) dated 31.03.2012 with effect from 01.04.2012 and onwards.

  
(RITVIK PANDEY)  
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