

**GOVERNMENT OF TAMILNADU  
COMMERCIAL TAXES DEPARTMENT**

**PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND  
ADVANCE RULING**

**ACAAR No.77/2012-13**  
**Acts Cell-II/10337/2013**

Dated: 25.10.2016

- Present:**
1. Dr. C. Chandramouli, I.A.S.,  
Additional Chief Secretary / Commissioner of  
Commercial Taxes.
  2. Thiru. A. Sarvar Allam,  
Additional Commissioner (CT), (Public Relations)(FAC)
  3. Thiru. K. Mahalingam,  
Additional Commissioner (CT), (Revision Petitions)

**REVIEW ORDER**

- Ref:
1. Proceedings of the Authority for Clarification and Advance Ruling in ACAAR.77/12-13 (Acts Cell-II/36276/12) dated 20-02-2013.
  2. Tvl. Genlite Engineering Private Limited, Kancheepuram Dt., Review Petition dated 01-4-2013.

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Tvl. Genlite Engineering Private Limited, Irungattukotai, Kancheepuram District have preferred this Review Application on the proceedings of this authority under Section 48-A (4) of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act, 2006) in the reference 1<sup>st</sup> cited.

2. On application by the same applicant, this authority clarified that Generating sets are taxable at 14.5% upto 06.12.2012 and at the reduced rate of 5% on and from 07.12.2012 in the proceedings 1<sup>st</sup> cited.

3. Aggrieved of the Proceedings, the applicant-dealers have filed this Review Application stating that both the 'Generators' and

'Generating sets' are used for producing electricity and both are classified in Part-C Entry-39 taxable at 12.5% upto 1.4.2008. Subsequently the rate of tax for Generators was reduced at 4% (at present 5%) w.e.f. 1.4.2008. On 7.12.2012 the Government have reduced the rate of tax for generating sets from 14.5% to 5%. Their contention is that since there is no difference between generator and generating sets, the concessional rate of tax applicable to generator w.e.f 1.4.2008 should be eligible for generating sets also and hence the request to review the earlier clarification.

5. This committee considered the above review application and the documents filed along with the application carefully and examined the issue with reference to the Schedules and provisions of TNVAT Act, 2006 and notifications issued under the Act. In the clarification under review issued on 20.02.2013, it was clarified that "Generating sets" were liable to tax at 14.5% upto 6/12/2012 and at 5% from 07.12.2012, based on the Schedule Entries and Government Notifications in force at that point of time.

6. However, a notification in Notn.No.II(2)/CTR/967/2013 was issued on 9/12/2013 in G.O. Ms. No. 156, CT&R(B2) Dept, dated 9<sup>th</sup> Dec 2013, reducing the rate of tax on generating sets to 4% from 1/4/2008 to 11/7/2011 and to 5% from 12/7/2011, subject to the following conditions:-

(i) There shall be no refund of tax already collected at the rate of 12.5% or 14.5% as the case may be, on the sale of Generating sets between 01.04.2008 and 06.12.2012, and remitted to the Government.

(ii) Input Tax Credit shall be allowed at 12.5% from 01-04-2008 upto 11-07-2011 and at 14.5% from 12-07-2011 upto 06-12-2012 on the tax paid in the State on the purchase is collected at the rate of 12.5% or 14.5%, as the case may be, and remitted to Government on the sale of Generating sets in the State.

(iii) If the tax was collected at the rate of 12.5% or 14.5%, as the case may be, on the sale of Generating sets in the State between

01.04.2008 and 06.12.2012 but remitted to the Government at the rate of 4% or 5%, as the case may be, the difference in tax shall be remitted to the Government.

(iv) The input tax credit availed shall be restricted to 4% or 5%, as the case may be, if tax is paid at the rate of 12.5% OR 14.5% on the purchase of Generating sets but collected and remitted to the Government at the rate of 4% or 5% on the sale of Generating sets in the State.

The above notification was issued by the Government after the date of issue of the clarification under review.

7. The Committee, therefore, after examining the above facts in detail clarifies now, as follows,

(i) Generating sets are liable to tax at the reduced rate of 4% from 1/4/2008 to 11/7/2001 and at 5% from 12/7/2011 to 6/12/2012 as per Notn.No.II(2)/CTR/967/2013 issued in G.O. Ms. No. 156, CT&R(B2) Dept, dated 9<sup>th</sup> Dec 2013, subject to the conditions prescribed in these notifications.

(ii) Generating sets are liable to tax at the reduced rate of 5% from 07.12.2012 onwards as per Notn.No.II(1)/CTR/35(b-2)/2012 issued in G.O.Ms.No154 dated 08.12.2012, as already clarified in ACAAR.77/12-13 (Acts Cell-II/36276/2012) dated 20-02-2013.

8. In the result, the clarification issued in ACAAR.77/12-13, dated 20-02-2013 stands modified.

Dated this the Twenty-Fifth day of October 2016.

Sd/- A. Sarvar Allam,  
Additional Commissioner (PR)(FAC)

Sd/- K. Mahalingam,  
Additional Commissioner (RP)

Sd/- Dr.C. Chandramouli, I.A.S  
Additional Chief Secretary/  
Commissioner of Commercial Taxes

To  
Tvl. Genlite Engineering Pvt Ltd,  
42, Sterling Road,  
Nungambakkam,  
Chennai - 600 034

Copy to:  
The Assistant Commissioner (CT)  
Sriperumbudur Assessment Circle,

The Joint Commissioner (CT),  
Chennai (South) Division.

The Joint Commissioner (CS)

**To host in the Department Website**

The Principal Secretary to Government, Commercial Taxes & Registration Department, Chennai - 9.

All Joint Commissioners (CT) including Enforcement, LTU, MOU and ISIC.

All Deputy Commissioners (CT), Territorial, Assessment and Enforcement

All Head of Offices (Assessment)

The State Representative, Sales Tax Appellate Tribunal, Chennai-104.

The Addl. State Representative, (AB) Chennai, Madurai and Coimbatore.

The Director, CTSTI, Greams Road, Chennai - 6.

The Executive Officer, Traders Welfare Board, Chennai - 5.

The Accountant General (Audit)-II, No.44, Greams Road, Chennai - 6.

The Additional Commissioners, Deputy Commissioners, Assistant Commissioners, Commercial Tax Officers in CCT's Office.

Personal Clerk to the CCT.

Stock File 3/ Acts Cell-II /Spare - 5.

//Forwarded/By Order//

*L. S. Narayanan*  
25/1/14  
Commercial Tax Officer