

GOVERNMENT OF TAMIL NADU
COMMERCIAL TAXES DEPARTMENT
REVISED PROCEEDINGS OF THE AUTHORITY FOR
CLARIFICATION AND ADVANCE RULING



ACAAR NO.6/2015-16
Acts Cell-II/11019/2015

Dated: 30th September 2021

- Present:**
1. Thiru M.A.Siddique, I.A.S.,
Principal Secretary/
Commissioner of Commercial Taxes
 2. Thiru K.Gnanasekaran,
Senior Additional Commissioner (ST),
Policy and Public Relations.
 3. Thiru M.Parameswaran,
Additional Commissioner (ST),
Review, Appeal & Revision.

ORDER:-

Sub:	Authority for Clarification and Advance Ruling – Section 48-A Tvl.Schwing Stetter India Private Limited – Certain Clarification Sought – Orders passed – Aggreived – Filed Writ Petition before High Court- Set aside –Remanded – With direction to afford Personal Opportunity – Pass orders in accordance with law – Petitioner called for Hearing – on 24-09-2021 – Orders Passed Reg.
Ref:	<ol style="list-style-type: none">1. Proceedings of the Authority for Clarification and Advance ruling in ACAAR No.6/2015-16 dated 30-04-2018.2. Order of the Honourable High Court in W.P. No.12480/2018 dated 06-07-2021.3. Hearing Notice in VA6/LEG/01011/3/2011 dated 27-08- 2021.

1. In the reference first cited, based on the application dated 07-04-2015 filed under Section 48-A(1) of Tamil Nadu Value Added Tax Act 2006 (TNVAT Act, 2006), read with Rule 12-A of the Tamil Nadu Value Added Tax Rules, 2007 (TNVAT Rules 2007), seeking clarification on the rate of tax for the goods "Asphalt Batch Mix Plant", an order was issued clarifying rate of tax as under:-

- i. **"Asphalt Batch mix plant"** is a capital goods used in the manufacture of Asphaltic concrete in the State of Tamil Nadu, is liable to tax @ 5% under Entry No. 25 of Part-B of First Schedule read with Section 2(11) of the TNVAT Act, 2006.

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ii. **"Asphalt Batch mix plant"** if sold to registered dealers (contractors) in other State under the cover of 'C' Form declaration, the applicable rate of tax under Section 8 (1) of the Central Sales Tax Act, 1956 is 2%.

iii. **"Asphalt Batch mix plant"** if sold to the contractors in other States who are non-dealers, the applicable rate of tax is taxable @ 14.5% under Entry 69 of Part-C of First Schedule to the TNVAT Act, 2006 with effect from 12.07.2011 and 12.5% before 12.07.2011.

2. Aggrieved, against the above order, the applicant has filed a Writ Petition before the Honourable High Court of Madras in W.P. No.12480 of 2018 praying to quash the same in view of violation of Principles of Natural justice and this apart, the withdrawal application submitted for not pressing the two issued were also not being considered in the order passed.

3. The Honourable High Court in its order read in the reference second cited has ordered as follows:-

"Accordingly, the Proceedings No. ACAAR No.6/2015-16 / Acts Cell-II/11019/2015 dated 30-04-2018 is quashed and the matter is remanded back to the first respondent for fresh consideration and pass orders on merit and in accordance with law by affording opportunity to the Writ Petitioner and the application for withdrawal is also to be considered by the first respondent in the manner known to law"

4. Hence, in order to give effect to the order of the High Court, the applicant was called for to appear for Personal hearing before this Authority for Clarification and Advance Ruling on 24-09-2021 vide Intimation in VA6/LEG/01011/3/2011 dated 27-08- 2021 read in the reference third cited.

5. The Applicant appeared on the date of hearing and stated that though an application for advance ruling seeking clarification on the rate of tax for the goods "Asphalt batch mix plant" was submitted for both intra-state and inter-state transactions, subsequently restricted with reference to the intra-state transaction i.e., applicable rate of tax on the sales of such goods within the State of Tamil Nadu vide letter dated 13-08-2015. They have also requested to pass necessary orders with reference to the above revised request.

6. From the order already passed vide reference first cited, it is evident that the prayer made during the hearing is already answered and therefore consequent to order of the High Court and as a result of the personal hearing, the orders passed vide reference first cited is modified as under:-

"Asphalt Batch Mix Plant when sold to a Person in the State of Tamil Nadu for manufacture of a final product is liable to tax at 5% under Entry No. 25 of Part-B of First Schedule read with Section 2(11) of the TNVAT Act, 2006"

7. The other two clarifications on the said goods issued vide proceedings read in the reference first cited with reference to the inter-state transactions referred therein that was originally sought for by the Applicant vide their application dated 06-04-2015 and subsequently not pressed vide their letter dated 13-08-2015 is now withdrawn.

Sd/- M. Parameswaran,
Additional Commissioner (RAR)

Sd/- K. Gnanasekaran,
Senior Additional Commissioner (P&PR)

Sd/- M.A. Siddique,
Principal Secretary/
Commissioner of Commercial Taxes

To,

Tvl.Schwing Stetter India Private Limited,
F71, SIPCOT Park,
Irungattukottai,
Sriperumbudur Taluk -6002117.

Copy to

The Assistant Commissioner (ST),
Sriperumbudur Assessment Circle.

The Joint Commissioner (ST),
Chennai South Division.

✓ The Joint Commissioner (CS)
(to host in the Department Website)

The Secretary to Government, Commercial Taxes and Registration Department,
Chennai-09.

//forwarded by order//

bn - [Signature]
30-09-2021/16

Joint Commissioner (VAT & Audit)

ek
30/9/21