

**GOVERNMENT OF TAMILNADU  
COMMERCIAL TAXES DEPARTMENT**

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

**ACAAR No.08/2016-2017**  
**Acts cell-II/11271/2016**

Dated:12.06.2018

- Present:**
1. Dr.T.V. Somanathan, I.A.S.,  
Principal Secretary / Commissioner of Commercial Taxes.
  2. Thiru M. Parameswaran,  
Additional Commissioner (ST), (Public Relations)(FAC)
  3. Dr. C. Palani,  
Additional Commissioner (ST), (Revision Petitions)(FAC)

1	Name and address of the Applicant	:	Tvl. Hisun Technologies Ltd, Lakshmi Nagar, 4 <sup>th</sup> Street, Behind H.P. Gas Depot, Manthopu, Vandalur, Chennai - 600 048.
2.	Registration Certificate No.	:	TIN : 33140886934 CST : 896342
3.	Assessment Circle	:	Thirumudivakkam Assessment Circle
4.	Date of application	:	03.05.2016
5.	Date of receipt of application	:	03.05.2016
6.	Clarification sought for	:	Rate of tax clarification on the sale of " <b>Cold Storages (mobile and stationery) for vegetables and fruits</b> ".
7.	Date of Personal Hearing	:	--
8.	Represented by	:	--

**ORDER**

Tvl. Hisun Technologies Ltd, Lakshmi Nagar, 4<sup>th</sup> Street, Behind H.P. Gas Depot, Manthopu, Vandalur, Chennai - 600 048 (TIN 33140886934), registered dealers in the files of Thirumudivakkam Assessment Circle have preferred application in

Form 'VV' and sought clarification under Section 48-A (1) of the 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).

2.1. The applicant-dealer have sought for clarification on the rate of tax for the inter-State sale of "**Cold Storages (mobile and stationery) for vegetables and fruits**" without Form 'C' declaration.

2.2. The applicant-dealer have stated that they are manufacturer of Transport Refrigeration and Air Conditioning equipment that are fit into chassis of the trucks and used for transportation and storage of agricultural products. They have also stated that the buyers are farmers / farmers co-operatives who are not registered dealers and not having Form C Declaration.

3. The issue has been examined in detail with reference to the provisions of the TNVAT Act, 2006 and TNVAT Rules, 2007 and the related entries in all the Schedules to the TNVAT Act 2006. Section 48-A of the TNVAT Act, 2006 provides for clarification on any point concerned with rate of tax for commodities.

4.1. The claim of the applicant-dealer is that their commodity fall under the category of capital goods defined under entry 25 of Part-B of the First Schedule to the TNVAT Act, 2006. The said entry reads as under :

*"25. Capital goods as described in Section 2 (11) of the Act."*

**Section 2 (11) :** "Capital goods means

(a) *plant, machinery, equipment, apparatus, tools, appliances or electrical installation for producing, making, extracting, processing of any goods or for*

*extracting or for bringing about any change in any substance for the manufacture of final products;*

- (b) pollution control, quality control, laboratory and cold storage equipments;*
- (c) components, spare parts and accessories of the goods specified in (a) and (b) above;*
- (d) moulds, dies, jigs and fixtures;*
- (e) refractors and refractory materials;*
- (f) storage tanks; and*
- (g) tubes, pipes and fitting thereof*

*used in the State for the purpose of manufacture, processing, packing or storing of goods in the course of business excluding civil structures and such goods as may be notified by the Government."*

4.2. As stated by the applicant-dealer, it is not in doubt that the commodity dealt by them is a Capital goods as it is finding place in Entry 25 of Part-B of the First Schedule read with Section 2(11) of the TNVAT Act, 2006. All the above mentioned Capital goods as such taxable at 14.5% but in order to provide boost to the manufacturing activity within the State of Tamil Nadu thereby generating revenue from finished goods sold inside and outside the State of Tamil Nadu and to reduce the blocking of Capital to all the mercantile public, the Government granted a concessional rate of tax for those purchases with a condition that these goods should be used in the State of Tamil Nadu for the purpose of manufacturing, processing, packing or storing of the goods in the course of business. Granting of concessional levy at 5% on inter-state sales of the above Capital goods is in no way helpful to the State of Tamil Nadu.

4.3. As per Section 8(2) of the Central Sales Tax Act, 1956 (CST Act, 1956), the tax payable by any dealer on his turnover in so far as the turnover or any part thereof related to the sale of goods in the course of inter-State trade or commerce to persons other than registered dealers shall be the rate applicable to the sale or purchase of such goods inside the appropriate State under the Sales Tax Law of that State. As per this provision, it is not in

doubt that the applicable rate of tax is 5% even for inter-state sales. But, as per the Explanation provided under that Section, a dealer shall be deemed to be a dealer liable to pay tax under the Sales Tax Law of the appropriate State, notwithstanding that he, in fact, may not be so liable under that law. Thus if any dealer is not liable to tax or liable for reduced rate of tax under the appropriate State, then, the said dealer shall be deemed to be a dealer liable to pay tax under the sales tax law of the appropriate State at the applicable rate. The applicable rate of tax for Cold Storage Equipment under the TNVAT Act, 2006 is 14.5% as per entry 3 of Part-C of the First Schedule to the TNVAT Act, 2006 that reads as under:-

- (i) Air Conditioning plants, air conditioners and other air conditioning appliances, air coolers, room coolers including all cooling appliances, apparatus and instruments;
- (ii) Refrigeration plants and all kinds of Refrigerating appliances and equipments including refrigerators, deep freezers, mechanical water coolers, coffee coolers, walk-in-coolers;
- (iii) Water Cooler-cum-heater units;
- (iv) Parts and accessories of items (i) to (iv) above.

5. In view of the above, it is clarified that

- (i) **"Cold Storage Equipment"** is taxable @ 5% as per Entry 25 of Part-B of the First Schedule read with Section 2(11) of the TNVAT Act, 2006, if it is sold within the State for the purpose of manufacturing, processing, packing or storing of the goods in the course of business.
- (ii) **"Cold Storage Equipment"**, if sold to un-registered dealers located in other State, is taxable @ 14.5% as per entry 3 of Part-C of the First Schedule to the

TNVAT Act, 2006 read with Section 8(2) of the CST Act, 1956.

Dated this the Twelfth day of June 2018.

Sd/- M. Parameswaran,  
Additional Commissioner (PR)(FAC)

Sd/- C. Palani,  
Additional Commissioner (RP) (FAC)

Sd/- Dr. T.V. Somanathan,  
Commissioner of Commercial Taxes

To

Tvl. Hisun Technologies Ltd,  
Lakshmi Nagar, 4<sup>th</sup> Street,  
Behind H.P. Gas Depot,  
Manthopu, Vandalur,  
Chennai – 600 048.

Copy to:  
The Assistant Commissioner (ST),  
Thirumudivakkam Assessment Circle.

The Joint Commissioner (ST),  
Chennai (East) 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 (ST) including Enforcement, LTU, MOU and ISIC.

All Deputy Commissioners (ST), 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//

  
State Tax Officer