

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.21/2016-2017
Acts cell-II/13559/2016

Dated: 15.06.2018

- 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. Bata India Limited, No.17, Anna Salai, Mount Road, Chennai-600 002.
2.	Registration Certificate No.	:	TIN : 33780640687 CST : 33848
3.	Assessment Circle	:	Anna Salai Assessment Circle.
4.	Date of application	:	23.05.2016
5.	Date of receipt of application	:	30.05.2016
6.	Clarification sought for	:	Rate of tax on " Foot Wear "
7.	Date of Personal Hearing	:	--
8.	Represented by	:	--

ORDER

Tvl. Bata India Limited, No.17, Anna Salai, Mount Road, Chennai-600 002 (TIN 33780640687), registered dealer in the files of Anna Salai 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 "**Foot Wear**".

2.2. Though the applicant dealer stated the commodity for which clarification sought is "Foot Wear", they have requested to clarify

whether Footwear with sale value less than Two Hundred Rupees (Rs.200/-) if sold in the course of Inter-state (outside Tamil Nadu) is exempt under the CST Act, 1956.

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 clarification requested by the applicant dealer is with reference to the goods with a certain condition i.e., sale value of footwear less than Rs.200/-. Footwear of sale value less than Rs.200/- per pair would bear no tax on sale inside the State by virtue of its classification under Entry 30 in Part-B of the Fourth Schedule to the TNVAT Act, 2006. In order to ascertain whether an exemption provided under Sales Tax law of State either by virtue of Notification or by virtue of an entry under a specific Schedule for classification of goods eligible for exemption, it has to be considered that "whether the exemption is commodity specific or dealer specific?". If the exemption relating to a particular commodity, even on certain criteria to distinguish a particular class of goods from an another class of goods, both being under the same genus of goods, the exemption provided under the statute for a particular category of the same genus cannot be construed as that of conditional and not available under Section 8(2) of the Central Sales Tax Act, 1956 (CST Act, 1956) as amended and brought into force with effect from 01.04.2007 by Taxation (Amendments) Act, 2007. The dealer specific exemption without any reference to particular or specific class of commodity but in terms of limitation with reference to the annual sales turnover does not acquire the general character, as provided under the omitted Section (2-A) or under Section 8(2) now in force of the CST Act, 1956.

4.2. The exemption provided under the said Entry in Fourth Schedule should be construed as general and commodity specific and not conditional so as to extend the benefit of exemption on the sale of Footwear of sale value less than Rs.200/- per pair in the course of inter-state trade or commerce falling under Section 8(2) of the CST Act,1956 taking into account that the price less than Rs.200/-per pair in the criteria to segregate as well as to differentiate and distinguish the Footwear of sale value less than Rs.200/- per pair from the other Footwear of value more than that.

4.3. Entry 30 in Part B of the Fourth Schedule to the TNVAT Act, 2006 reads as given below:-

"Footwear with sale value less than two hundred rupees".

The adjunct "Sale Value Less than two hundred rupees" expressly acts as a criterion or categories, differentiate and distinguish the Footwear

eligible for exemption from the footwear liable to tax. Thus, Footwear of sale value less than two hundred rupees and footwear of sale value more than two hundred rupees are two different species of the same genus, Footwear. The exemption provided under the entry 30 is to be purposefully construed not to defeat the intention of the legislature. The criterion "Sale value less than two hundred rupees" should not be considered as that of a condition for exemption.

4.4. In the case of Tvl. Royal PVC shoes Private Limited Vs. State of Rajasthan (138 STC 234) the exemption provided by way of notification in 1994 viz., *All kinds of footwear excluding footwear made of leather up to Rs.100/-* the Rajasthan High Court has held that the said exemption is applicable to the inter-state sales provided the value of footwear per pair is less than Rs.100/-. The Rajasthan High Court has answered that the exemption under the notification dated 07.03.1994 is an exemption of class of footwear which are not made of leather and whose value do not exceed Rs.100/- are exempt generally under Rajasthan Sales Tax Act,1954 and therefore inter-state sales of such class of footwear is also exempt under Section 8(2) of the CST Act, 1956. The High Court also observed that it is not in dispute that the turnover in respect of which exemption under Section 8(2-A) of the CST Act, 1956 is claimed, is related to such footwear which are not made of leather and whose value is only up to Rs.100/- and such inter-state sales turnover entitled to exemption as per notification as provided under Section 8(2-A) of the CST Act, 1956.

4.5. Another case of Preston Industries Vs. Commercial Tax Officer, District Circle-III, Bangalore and another reported in 103 STC 417 is also on similar facts and circumstances. Entry 46 of Fifth Schedule to Karnataka Sales Tax Act, 1957 provided an exemption to footwear costing less than Rs.30/- per pair. In this case, the Karnataka High Court also observed that the intention of the Government in exempting the goods by bringing the same under the Fifth Schedule to the Karnataka Sales Tax Act is to exempt cheap variety of footwear and the same may be identified with reference to its cost and in this case it is less than Rs.30/-. It also observed that the Legislature classified the goods in two categories-one costing more than Rs.30/- and the other less than Rs.30/-. The High Court finally concluded that if the legislature makes classification into two categories of goods, one category attracts tax and the other does not attract the tax, this is with reference to description of goods and not with reference to any specific conditions or circumstances.

4.6. As long as the reference to is to a class or category of goods, the exemption must be treated as general and if it is with reference to either manufacture or the circumstances under which the manufacturer sold the goods to the dealer or customer, then it would not be general and if it is with reference to the goods then such exemption, it is treated as general. In that case, the exemption provided by the Government was not with reference to the goods or class or category of goods, but

with reference to the industrial unit producing them and their manufacture and sale within a particular period.

5. Hence, the exemption provided for *Footwear with value less than two hundred rupees* under entry 30 of Part-B of the Fourth Schedule to the TNVAT Act, 2006 is more specific to that category of footwear in general in nature and serves towards the intention of the legislature.

7. Therefore, it is clarified that "**Footwear with sale value less than two hundred rupees**" is exempt from tax by virtue of Entry 30 of Part-B of the Fourth Schedule to the TNVAT Act, 2006 on sale inside the State and on sale in the course of inter-state trade or commerce, within the scope of Section 8(2) of the CST Act, 1956.

Dated this the fifteenth day of June 2018.

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

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

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

To
Tvl.Bata India Limited,
No.17, Anna Salai,
Mount Road, Chennai-600 002.

Copy to:

The Assistant Commissioner (ST),
Anna Salai Assessment Circle.

The Joint Commissioner (ST),
Chennai (Central) 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
18/6/18