GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT

PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND ADVANCE RULING

ACAAR No.66/2016-17 (Review)
VA6/43870/2019

Present:
1. Thiru M.A. Siddique, I.A.S.,
   Principal Chief Secretary /
   Commissioner of Commercial Taxes.
2. Thiru. K. Gnanasekaran,
   Additional Commissioner (CT),
   (Policy and Public Relations)
3. Dr. C. Palani,
   Additional Commissioner (CT),
   (Review and Appeal)(FAC)

Dated: 11.03.2020

REVIEW ORDER

Ref: 1. Proceedings of the Authority for Clarification and Advance
    Rulings in ACAAR.66/2016-17 (Acts Cell-II/7589/2017) to Tvl.
    Ammeraal Beltech India Private Limited, Chennai – 95 dated
    25.04.2018

2. Review Application dated 19.11.2019 received from Tvl.
    Ammeraal Beltech India Private Limited, Chennai – 95.

Tvl. Ammeraal Beltech (India) Private Limited., New No.68 (Old
No.85). Ayananambakkam, Vanagaram Road, Ambattur Taluk, Chennai – 600
095 (TIN: 33761350350) are doing business at "Unipunch Pride", 3rd Floor-
G1, Door No. 40, 2nd Main Road, Ambattur Industrial Estate, Chennai-
600058, the registered dealers in the files of Nolambur Assessment Circle
have preferred have a review application on the order dated 25.04.2018
passed by this Authority in ACAAR.66/2016-17 (Acts Cell-II/7589/2017)
under Section 48-A of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT
Act, 2006) in the proceedings 1st cited.

2. On an application made originally by the same applicant dealer, it
   was clarified in the proceedings 1st cited as follows:

   "'Conveyor Belt' is liable to tax at 5% as capital goods under Entry
25 of Part-B of the First Schedule read with Section 2(11) of the
TNVAT Act,2006, if sold inside the State for use in the manufacturing
industry."

3. The applicant-dealer have requested to review the above
   clarification with reference to the submission made in the review
   application and to classify the product dealt by them would be covered under the entry
   "Belting" under Entry 16 of Part-B of the First Schedule to TNVAT Act, 2006,
   the consequent tax rate applicable will be at 5%, under the powers vested in
   section 48-A(4) of the TNVAT Act, 2006.

4.1 The applicant-dealer sought for personal hearing and accordingly
they were heard on 24.02.2020. On the day of hearing, Tvl. CA Vinay
Chordia, Chartered Accountant, Partner of M/s. S L Gadiya & Co, Authorised
Representative for the applicant-dealer, appeared for the personal hearing
before the Authority and filed a written statement by demonstrated with
supportive judicial pronouncement and requested to pass suitable revision order.

4.2 In the written statement, it has been stated that the very same Authority of Advance Ruling in the case of Tvl. Fenner (India) Limited vide ACAAR 89/2012-13, dated 11.02.2013, where it was decided on various transmission belts used in many manufacturing industries and reproduce the words used by the Authority as below:

"7. .....................
There is a specific entry for "Beltings" under Entry 16 of Part B of the First Schedule which is wide enough to cover all kinds of beltings having application in Automobile, Industries and Agricultural Equipments. It has been held in many judicial pronouncements that the commodity terms used in the Act must be construed as understood in common parlance and its must be given its popular sense meanings."

4.3 Two different interpretations of a particular entry by the same authority on the same set of facts cannot be immunized from the equality clause under Article 14 of the Constitution. It would be a case of operating law unequally, attracting Article 14 of the Constitution [Jai Vijai Metal Udhyog Pvt. Ltd V. Commissioner, Trade Tax U.P., Lucknow [2010] 30 VST 1(SC)]

4.4 Further, it is settled law that when one particular item is covered by one specified entry, then, the Revenue is not permitted to travel to the residuary entry. The residuary entry is meant only for those categories of goods which clearly fall outside the ambit of specified entries. [Hindustan Poles Corporation V. Commissioner of Central Excise [2006] 146 STC 625; [2006] 4 SCC 85 referred to in Mahamaya Agencies V. State of Tripura[2008] 12 VST 529 (Gauhati)]

5. Entry-16 of Part-B of First Schedule to the TNVAT Act, 2006 reads as follows:

"Beltings"

When there is a specific entry namely "Belting" in the Schedule, "Conveyor Belts" should be classified under the above entry by applying the common parlance test (i.e) the manner in which the common man will understand them.

6. A decision has already been taken by the Authority and clarified in the case of Tvl. Fenner (India) Limited in ACAAR 89/2012-13, dated 11.02.2013 that

"Transmission Rubber Beltings are taxable at 5% under Entry 16 of Part B of the First Schedule to the TNVAT Act, 2006."

7. In view of the above and under the power vested in Section 48-A(4) of the TNVAT Act 2006, revoking the earlier clarifications issued in the reference 1st cited, it is hereby re-clarified that the "Conveyor Belts" dealt by the applicant-dealer are taxable at 5% under Entry 16 of Part-B of First Schedule to the TNVAT Act, 2006.

Dated this the 11th day of March, 2020.

Sd/- C. Palani, Additional Commissioner (Review and Appeal) (FAC)  
Sd/- K.Gnanasekaran, Additional Commissioner (Policy and Public Relations)  
Sd/- M.A. Siddique, Principal Secretary / Commissioner of Commercial Taxes
To
Tvl. Ammeraal Betch (India) Pvt Ltd.,
"Unipunch Pride",
3rd Floor-G1, Door No. 40,
2nd Main Road,
Ambattur Industrial Estate,
Chennai-600058.

Through:
Thiru. CA Vinay Chordia, Chartered Accountant,
M/s. S L Gadiya & Co.,
Old No. 106, New No. 130,
1st Floor, Vepery High Road,
Vepery, Chennai – 600 007. (By RPAD)

Copy to:
The Assistant Commissioner (ST)
Nolambur Assessment Circle

The Joint Commissioner (ST),
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 (ST) including Intelligence and LTU.
All Deputy Commissioners (ST), Territorial, Assessment and Enforcement
All Head of Offices (Assessment)
The State Representative, Sales Tax Appellate Tribunal, Chennai– 104.
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.

//Forwarded/ By Order//

State Tax Officer