

<b>PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND ADVANCE RULING</b>		
<b><u>ACAAR No. 006/ 2012-13.</u></b> <b><u>Acts cell – II/7371/2014</u></b>		Dated 05.12.2014
<b><u>Present:</u></b>	1. Thiru. K.Rajaraman, I.A.S., Principal Secretary / Commissioner of Commercial Taxes.  2. Thiru. R.Vayanaperumal, Additional Commissioner (CT), (Public Relations)  3. Thiru. K.Mahalingam, Additional Commissioner (CT), (Revision Petitions)	
1.	Name of the Applicant	: Tvl. Masterline Technologies Pvt. Ltd. No.474/E, R.K. Complex, Kamarajar Road, Upplipalayam (Post), Coimbatore -15
2.	Registration Certificate No.	: TIN:33332102773 / CST:913329
3.	Name of Assessment circle	: Peelamedu (South), Coimbatore
4.	Date of review application	: 26.02.2014
5.	Date of receipt of application	: 03.03.2014
6.	Clarification sought for	: Review of clarification in respect of rate of tax on "Electronic Yarn Clearer" in ACAAR No. 006/2013-14 dated 04.10.2013.
7.	Date of Personal Hearing	: 12.03.2014
8.	Represented by	: Thiru. J.Sankar Raman Advocate & Counsel for Applicants.

### **ORDER**

Tvl. Masterline Technologies Pvt. Ltd., No.474/E, R.K. Complex, Kamarajar Road, Upplipalayam (Post), Coimbatore-15 (TIN:33332102773), registered dealers in Textile Machinery, Spares, Components and accessories thereto, in the files of Peelamedu (South) Assessment Circle, Coimbatore, have preferred this review application as provided under Section 48-A (4) of the TNVAT Act, 2006, as aggrieved of

the clarification already advanced by the Advance Ruling Authority in respect of rate of tax for "Electronic Yarn Clearer" in its proceedings in ACAAR No.006/2013-14 dated 04.10.2013.

2. The Advance Ruling Authority has clarified in its proceedings in ACAAR No.006/2013-14 dated 04.10.2013, have observed and clarified as given below:

*".....the Yarn Clearer has independent existence and is not an integral part of the textile machinery. The textile machinery can be run without the use of Yarn Clearer and it can be used only if required to detect any defects in the yarn and hence its usage is not absolutely essential for running a spinning Mill. Therefore, Yarn Clearer cannot be considered as part of the textile machinery. The Yarn Clearer is to be considered as a residuary item only taxable at 14.5 % under Entry 69 of Part-C of the First Schedule."*

Aggrieved of the above observation and clarification, the applicant-dealers have invoked the review jurisdiction of the Advance Ruling Authority provided under section 48-A(4) of the TNVAT Act, 2006.

3. The applicant-dealers have sought for personal hearing. The Authority for Clarification and Advance Ruling have provided an opportunity for personal hearing on 12.03.2014; and the applicant-dealers were informed in writing to appear before the Authority on 12.03.2014. Thiru. J.Shankar Raman, Advocate and Counsel for the applicant-dealers has represented before the Authority on 14.02.2014 for hearing and placed his arguments on the lines of contentions raised in their review application. The learned Counsel has request to reconsider the clarification already advanced and to re-clarify, considering the facts and documentary evidences furnished along with the review application as detailed below:

The Electronic Yarn Clearer is an assembly consisting of Control Station, sensing head, evaluation unit and accessories. This Electronic Yarn Clearer is a part of Auto Cone Winding Machine manufactured by the companies like Savio, Schlafhorst, Oerlikon/Saurer, Murata, and Veejay Lakshmi Engineering.

The Electronic Yarn Clearer Assembly and its parts are imported from M/s. Loepfe Brothers Ltd., Switzerland and supplied to the customers during the course of their service activity.



The earlier clarification by the Advance Ruling Authority vide its proceedings dated 04.10.2013 that the Electronic Yarn Clearer is an independent system; not an integral part of Auto Cone Winding Machine; and therefore taxable @ 14.5 % under Entry 69 of Part-C of First Schedule, is due to the failure on the part of the applicant-dealer to furnish the literature about its nature and functioning and its role in Auto Cone Winding Machine.

The applicant-dealers have also enclosed the brochures of Auto Cone Winding Machines of Savio and Oerlikon; and also the copies of Certificates issued by the Technical Experts, M/s. Spinning Management Consultancy Service, Coimabtoe, the Auto Coner manufacturers M/s. Savio, Italy, M/s.Veejay Lakshmi Engineering Works Ltd., India and several textile mills, spinning Mills, to prove that Electronic Yarn Clearer is an integral part of Auto Cone Winding Machine – Auto Coner.

Besides, the applicant-dealers has drawn reliance from several decisions in the cases of Rajalakshmi Enterprises vs. State of Tamil Nadu (2010) 29 VST 533 (Mad.), State of Tamil Nadu vs. J.J. Brothers (2000) 120 STC 428 (TNTST) and Tamil Nadu Premier Polytronic Ltd. (2000) 120 STC 43 (TNTST).

The applicant-dealers have prayed on the above with the request to bear in mind, that the "Electronic Yarn Clearer" is an integral part of the Automatic Cone Winding Machine – Autoconer, a textile machinery under Entry in Sl. No. 23, "Textile Machinery and Parts" in the list of goods notified under Section 30 as taxable at the reduced rate of 5 % with effect from 12<sup>th</sup> July 2011 under Notification No. II(1)/CTR/12(R-20)/2011 in G.O. No. 78, CT & R (B2) Department dated 11.07.2011. On the other hand, it is claimed that the Electronic Yarn clearer qualifies to be classified under capital goods as per Entry 25 in Part-B of First Schedule read with section 2(11)(c) of the Act, since it is an integral part of the Auto Cone Winding Machine – Autoconer, a textile machinery which would fall within the meaning and scope of section 2(11)(a) of the Act and Entry 25 of Part-B of First schedule to the Act, 2006. On the above, the applicant-dealers have prayed that the rate of tax may appropriately be clarified in respect of Electronic Yarn Clearer, an integral part of Auto Cone Winding Machine.

4. The issue has been examined in detail with reference to the provisions of TNVAT Act, 2006 and Rules, 2007 and Section 8(2) of the CST Act, 1956. Section 48-A (4) of TNVAT Act, 2006 provides for the Authority for Clarification and Advance Ruling to review, amend or to revoke the clarification issued on any point concerned with rate of tax for commodities at any point of time. The contentions raised and the facts

furnished with reference to the structural and functional aspects of the Electronic Yarn Clearer are carefully considered. The brochure and the Certificates issued by the Technical Experts, M/s. Spinning Management Consultancy Service, Coimabtoe, the Auto Coner manufacturers M/s. Savio, Italy, M/s.Veejay Lakshmi Engineering Works Ltd., India and several textile mills, spinning Mills, declaring that the Electronic Yarn Clearer is an integral part of Auto Cone Winding Machine – Auto Coner are perused and the contents in such documents are considered with their due merits. The issue involved and to be decided is, "Is the Electronic Yarn clearer is taxable at the reduced rate of 5 % as an integral part of Auto Cone Winding Machine – Auto Coner, the textile machinery as per under Notification No. II(1)/CTR/12(R-20)/ 2011 – G.O. No. 78, CT & R (B2) Department dated 11.07.2011.

5. The applicant-dealer is importing the Electronic Yarn Clearer Assembly and its parts are imported from M/s. Loepfe Brothers Ltd., Switzerland and supplied to the customers during the course of their service activity relating to repairs and maintenance executed for the Spinning Mills. The structural and functional specifications of the Electronic Yarn Clearer as revealed from the brochures of Auto Cone Winding Machines of Savio, Oerlikon indicate that Electronic Yarn Clearer Assembly is so designed modularly to adapt or integrate with the different make of Auto Cone Winding Machines. The electronic communication system of both the Auto Cone Winding Machine and the Electronic Yarn Clearer are in consonance. In Schlahorst make winding machine the control station is inbuilt and it is shared by both the winding machine and the yarn clearer. The technical and utility certificates issued by the Technical Experts, M/s. Spinning Management Consultancy Service, Coimabtoe, the Auto Coner manufacturers M/s. Savio, Italy, M/s.Veejay Lakshmi Engineering Works Ltd., India, several textile mills and spinning Mills, reveal their categorical and unanimous declaration, as extracted below:

*" The Electronic Yarn Clearer used in the Automatic Cone Winding Machine is an integral part of the winding machine – Autoconer. The Automatic Cone winding machine cannot produce yarn without the Electronic Yarn Clearer. In the absence of Electronic Yarn Clearer the spindle in Automatic Cone Winding Machine will not run, resulting in spindle stoppage with no production for the stoppage period. The Electronic Yarn Clearer is also used to check the quality of the yarn and cut the defective yarn and inform the Automatic Cone Winding Machine to remove the defective yarn and to splice (join) the yarn automatically. Thus Electronic Yarn Clearer is used as an integral part of all Automatic Cone Winding Machine manufactured by Savio,*



*Schlafhorst (Saurer), Murata and Veejaylakshmi Engineering."*

It is evident therefore the role of Electronic yarn Clearer in the Auto Cone Winding Machine – Auto coner is to sense the presence of yarn and directs the drum to start and to stop if there is no yarn in clearing zone. It continuously monitors the quality of yarn and stops the production from the spindle when it detects defective portion and helps the suction arms to remove the defective portion of yarn from the cones and it ensures the yarn count uniformly by alerts by signals when yarn count varies. Thus the Electronic Yarn Clearer is so designed exclusively for Auto coners and cannot therefore be used in any other machines.

6. The High Court of Madras, as correctly pointed out by the applicant-dealers, in the case of Rajalakshmi Enterprises vs. State of Tamil Nadu (2010) 29 VST 533 (Mad.) has decided that the paper cones are part of textile machinery, even though the paper cones are used for winding the yarn on them. Similarly in the case of State of Tamil Nadu vs. J.J. Brothers (2000) 120 STC 428 (TNTST), the Taxation Special Tribunal had held respectively that the rubber beltings used in textile machinery are part of textile machinery. Further, the Taxation Special Tribunal, in the case of Tamil Nadu Premier Polytronic Ltd. (2000) 120 STC 43 (TNTST), has held that the yarn cleaner is a part of textile machinery, since neither it can be used as such nor could be used any other machinery in general or sold as general goods; but used only in textile machineries to do the job of removing the faults in the yarn at the time of winding.

7. On the above, it is evident that the electronic Yarn Clearer is an integral part of the textile machinery, Auto Cone Winding Machine – Autoconer of different make. Therefore, it would fall within the scope of the Entry 23 with the description, "Textile Machinery and Parts" in the list of goods normally taxable at 14.5 %, notified as taxable at the reduced rate of 5 % under Section 30 with effect from 12<sup>th</sup> July 2011 under Notification No. II(1)/CTR/12(R-20)/ 2011 – G.O. No. 78, CT & R (B2) Department dated 11.07.2011.

8. Apart from the above, the Auto Cone Winding Machine, the textile machinery is eligible to be considered as 'capital goods' as pointed out by the applicant-dealers under Entry 25 in Part-B of First Schedule read with section 2(11)(a) of the TNVAT Act, 2006. The Electronic Yarn Clearer, being an integral part of such Auto Cone Winding Machines of different make, would fall under Section 2(11)(c) of the Act and therefore attract the tax only @ 5 % under Entry 25 of Part-B of First Schedule to the Act.

9. Finally it is re-clarified as detailed below:

**“The Electronic Yarn Clearer, though normally taxable at the rate of 14.5% under residual entry 69 of Part C of the First Schedule to the TNVAT Act, 2006 as clarified earlier vide the Proceedings of the Authority dated 05.10.2013, is liable to tax at the reduced rate of 5% as integral part of Automatic Cone Winding Machine – Autoconer, the textile machinery, under Entry in Sl. No. 23 in the list of goods notified as taxable at the reduced rate of 5 % under Notification No. II(1)/CTR/12(R-20)/ 2011 – G.O. No. 78, CT & R (B2) Department dated 11.07.2011”.**

Dated this the 5<sup>th</sup> day of December, 2014.

R. Vayanaperumal,  
Additional Commissioner (PR)

K. Mahalingam,  
Additional Commissioner (RP)

K. Rajaraman,  
Principal Secretary/  
Commissioner of Commercial Taxes

To

Tvl. Masterline Technologies Pvt. Ltd.  
No.474/E, R.K. Complex,  
Kamarajar Road,  
Upplipalayam (Post),  
Coimbatore -15

Copy to:

The Assistant Commissioner (CT)  
Peelamedu Assessment Circle

The Joint Commissioner (CT),  
Coimbatore 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 File3 / Acts Cell-II / Spare - 5.

//Forwarded/By order//

  
Additional Commissioner (PR)