

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.01/2017-2018
Acts cell-II/10847/2017

Dated: 31.05.2018

- 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. P.S.T. Engineering Construction, Kolaram Post, Paramathy Velur Taluk, Namakkal District - 637 201.
2.	Registration Certificate No.	:	TIN : 33763101588 CST : NIL
3.	Assessment Circle	:	Namakkal (Rural) Assessment Circle
4.	Date of application	:	07.04.2017
5.	Date of receipt of application	:	12.04.2017
6.	Clarification sought for	:	Rate of tax on " Galvanized Silo Storage System for food grains storage "
7.	Date of Personal Hearing	:	--
8.	Represented by	:	--

ORDER

Tvl. P.S.T. Engineering Construction, Kolaram Post, Paramathy Velur Taluk, Namakkal District - 637 201 (TIN 33763101588), registered dealer in the files of Namakkal (Rural) 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 "**Galvanized Silo Storage System for food grains storage**".

2.2. They have also requested to clarify the rate of tax on the sale of "**Galvanized Silo Storage System for food grains storage**" to Tamil Nadu Civil Supplies Corporation and whether will fall under "sale to State and Central Government Departments" as per G.O.Ms.No.77, Commercial Taxes and Registration Department, dated 11.07.2011 - Notification No.II(1)/CTR/12(R-16)/2011 - Gazette Extraordinary dated 11.07.2011 - effective from 12.07.2011 since the sale is done to Tamil Nadu Civil Supplies Corporation. In order to support their claim, the applicant-dealer enclosed a presentation on "**Galvanized Silo Storage System for food grains storage**" that comprised definition of SILO, its advantages, its process by user industries and diagrammatic presentation of its structure including civil foundation.

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. Perusal of the documents, power point presentation that comprised diagrammatic presentation revealed that the said storage system cannot be supplied as a finished goods to the buyers and in this case, the Tamil Nadu Civil Supplies Corporation. The civil foundation on which the entire structure stands further established the fact that these are forming part of construction activity comprising supply, erection, fabrication and installation as per the customer's specification. The components for such storage system are erected at the site identified by the buyer. From the manufacturing and erection activity, it is seen that the commodity that is designed as per the customer specification comprised materials falling under both 5% and 14.5% and as such, there is no specific entry in any of the Schedules to the TNVAT Act, 2006.

4.2. 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, equipments, apparatus, tools, appliances or electronic 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.

4.3. The applicant-dealer manufactures storage structure i.e., SILO, a best and safest storage solution for storage and handling of foodgrains are made from high quality Z350 (350 gm/m² of Zinc) steel sheets, dichromate high tensile bolts with neoprene washers to ensure a total water proof seal.

4.4. The applicant-dealer can benefit out of the above definition of the capital goods only when goods are supplied as an outright sale and not eligible in case of supply, erection, fabrication and installation in the site identified by the buyer supported by a civil structure [excluded in the definition of capital goods under Section 2(11)] of such storage systems.

4.5. As this involves elements other than outright sale, definitely this transaction squarely falls under the category of works contract, a deemed sale as defined under Section 5 and 6 of the TNVAT Act, 2006. The liability on the transactions has to be determined with reference to Section 5 and 6 of the TNVAT Act, 2006 and Rules 8 (5), 6(f) and 7(1)(e) of the TNVAT Rules, 2007.

4.6. With regard to the clarification sought by the applicant-dealer as to whether the G.O.Ms.No.77, Commercial Taxes and Registration Department, dated 11.07.2011 - Notification

A

No.II(1)/CTR/12(R-16)/2011 is applicable to them as the sales made to Tamil Nadu Civil Supplies Corporation, it is essential to point out that the reduction in the rate of tax to 5% granted vide the said G.O. is applicable to all the dealers in respect of their sales only when such sales effected to State and Central Government Departments including Indian Railways and Departments of other Governments in Tamil Nadu and not applicable to the Corporation, Boards, Undertakings etc.

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

(i) If the "**Galvanized Silo Storage System for Food grains**" is sold to Tamil Nadu Civil Supplies Corporation as an outright sale, then the same is taxable @ 5% as per entry 25 of Part-B of the First Schedule read with Section 2 (11) of the TNVAT Act, 2006 as the storage tanks included in Section 2 (11)(f) and the same also put to use for storing the goods in the course of business.

(ii) If the "**Galvanized Silo Storage System for Food grains**" along with civil construction is supplied, erected, fabricated and installed as a composite one involving labour and supply, then the liability to tax is governed under the provisions prescribed under Section 5 and 6 of the TNVAT Act, 2006, as the case may be.

(iii) That the sale of "**Galvanized Silo Storage System for Food grains**" to the Tamil Nadu Civil Supplies Corporation would not fall under the sale to State and Central Government Departments as per G.O.Ms.No.77, Commercial Taxes and Registration (B2) Department, dated 11.07.2011 - Notification No.II(1)/CTR/12(R-16)/2011, dated 11.07.2011, as the notification specifically referred State and Central Government Departments that does not cover Corporations, Board and Undertakings.

Dated this the thirty first day of May 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. P.S.T. Engineering Construction,
Kolaram Post,
Paramathy Velur Taluk,
Namakkal District - 637 201.

Copy to:

The Assistant Commissioner (ST),
Namakkal (Rural) Assessment Circle.

The Joint Commissioner (ST),
Salem 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
23/06/18
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