

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.08/2015-16
Acts cell-II/11810/2015

Dated:27.11.2015

- Present:**
- 1.Thiru. S.K.Prabakar, 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 and address of the Applicant	: Tvl. Sony India Private Limited, "Centennial Square" 6 th Floor, No. 6Am Dr. Ambedkar Road, Kodambakkam, Chennai - 600024.
2.	Registration Certificate No.	: TIN.No.33650461357 CST. 635517
3.	Assessment Circle	: Large Tax Unit - I
4.	Date of application	: 13-04-2015
5.	Date of receipt of application	: 13-04-2015
6.	Clarification sought for	: Rate of Tax on " Mobile Phone - Spares, Parts and Accessories "
7.	Date of Personal Hearing	: ---
8.	Represented by	: ---

ORDER

Tvl. Sony India, Chennai - 600024 (TIN.No. 33650461357), the registered dealers in the files of Large Tax Unit - I, Chennai have preferred application in Form 'VV' and sought clarification under

Section 48-A (1) of the TNVAT Act, 2006, read with Rule 12-A of TNVAT Rules, 2007.

2.1. The applicant-dealers have sought for clarification on rate of tax on the following:

"Mobile Phone – Spares, Parts and Accessories"

3.1. The issue has been examined in detail with reference to the provisions of TNVAT Act, 2006 and Rules 2007 and the relative entries regarding the commodities classified under the First and Fourth Schedule to the TNVAT Act, 2006. Section 48-A of TNVAT Act, 2006 provides for clarification on any point concerned with rate of tax for commodities.

3.2. The applicant dealer had sought for clarification regarding rate of tax on **"Mobile Phone – Spares, Parts and Accessories"**. It is pertinent to state here that the Cellular Telephones (Mobile Phones), were liable to tax @ 14.5% in the period from 12.07.2011 to 31.03.2015 vide Entry 13-A (i) of Part-C of First Schedule to the TNVAT Act, 2006 as inserted by Act No.30 of 2011. The parts and Accessories of Cellular Telephone are also specified under Sub Entry (vi) of Entry 13-A of Part-C of First Schedule to the Act and made liable to tax @ 14.5%.

3.3. Whereas, the rate of tax for Cellular Telephones (Mobile Phones) alone is reduced from 14.5% to 5% under Section 30 with effect from 01.04.2015 by Notification No. II(2)/CTR/143(a-3)2015 in G.O.Ms. No. 45/CT&R(B1) dated 25.04.2015. But the rate of tax for the Parts & Accessories of Cellular Telephones is not reduced by the same notification. Therefore the rate of tax for the Parts & Accessories of Cellular Telephones (Mobile Phone) still stands to be @ 14.5%. Besides, it is pertinent to state that the proviso to Section 3(2) of the TNVAT Act is applicable only in respect of parts and accessories of the commodities enumerated under the First Schedule, if the parts and Accessories of such commodities are not specified within such entry. The said proviso to Section 3(2) of the Act does not apply in the case of reduction in rate of tax by Notification under Section 30 without specifying the parts and accessories of the commodity for which the rate of tax is notified to be reduced. Hence, it is very clear that the **"Mobile Phone – Spares, Parts and Accessories" is liable to tax**

@ 14.5% as per Entry 13-A (vi) of Part-C of First Schedule to the TNVAT Act, 2006.

3.5. At this juncture, it is also pertinent to draw reference from a recent judgement dated December 17, 2014 by the **Hon'ble Supreme Court in the case of State of Punjab and others vs Nokia India Pvt. Ltd** in Civil Appeal Nos. 11486-11487 of 2014 (Arising out of SLP (C) Nos. 30399 of 2011) relating to rate of tax on Cellphone charger. The Hon'ble Supreme Court has held that the Cell phone charger is not a part to cellphone and is also not a composite part to cellphone but an independent product that can be sold separately, without selling the cellphone. Hence the Concessional rate of tax will not be applicable to Cell phone charger. On applying the principles laid down by the Hon'ble Supreme Court in the said judgement, the parts and accessories of any Cellular Telephone (Mobile Phone) not sold as a composite part to cellphone, are construed to be separate products falling under Entry 13-A(vi) of Part-C of First Schedule to the Act.

4. It may therefore be clarified that the **"Mobile Phone – Spares, Parts and Accessories" is liable to tax @ 14.5% as per Entry 13-A (vi) of Part-C of First Schedule to the TNVAT Act, 2006.**

Dated this the Twenty Seventh day of November 2015.

Sd/- R. Vayanaperumal,
Additional Commissioner (PR)

Sd/- K. Mahalingam,
Additional Commissioner (RP)

Sd/- S.K. Prabakar,
Principal Secretary/
Commissioner of Commercial Taxes

To

Tvl. Sony India Private Limited,
"Centennial Square" 6th Floor,
No. 6Am Dr. Ambedkar Road,
Kodambakkam, Chennai – 600024.

Copy to:
The Deputy Commissioner (CT),
Large Tax Payers Unit - I

The Joint Commissioner (CT),
Chennai 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 File 3/ Acts Cell-II /Spare - 5.

.. //Forwarded/By order//


Additional Commissioner (PR)