

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.09/2014-15
Acts cell-II/37699/2014

Dated:26.10.2016

- Present:**
1. Dr. C. Chandramouli, I.A.S.,
Additional Chief Secretary / Commissioner of Commercial Taxes.
 2. Thiru. A. Sarvar Allam,
Additional Commissioner (CT), (Public Relations)(FAC)
 3. Thiru. K. Mahalingam,
Additional Commissioner (CT), (Revision Petitions)

Review Order

- Ref:**
1. Proceedings of the Authority for Clarification and Advance Ruling ACAAR No.09/2014-15 (Acts Cell-II/12442/2014) dated 01.10.2014.
 2. Review Application from Tvl. Vision Stationary Private Ltd., No.8, Kasi Madam Street, Chidambaram - 608 001 dated 08.12.2014

Tvl. Vision Stationary Private Ltd., No.8, Kasi Madam Street, Chidambaram - 608 001 (TIN: 33234461480), registered dealers in stationary items in the files of Chidambaram-II assessment circle have preferred application under Section 48-A (4) of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act, 2006), read with Rule 12-A of Tamil Nadu Value Added Tax Rules, 2007 (TNVAT Rules, 2007) for review of clarification already advanced vide proceedings 1st read above.

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

(i)(a) "Student Note Books" are taxable at 5% under Entry 132 of Part-B of first Schedule, if such student note books are manufactured out of paper purchased from the dealer outside the State as well as from those not liable to pay tax under TNVAT Act, 2006.

(b) "Student Note Books" are exempted from tax under Entry 55(f) of Part-B of Fourth Schedule, if such student note books are manufactured out of paper purchased from registered dealers liable to pay tax under TNVAT Act, 2006.

(ii) "Exercise Note Books" are exempted from tax vide Sl.No.15 in the list of goods notified in **Notification No.II(1)/CTR/30(a-2)/2007** in G.O.Ms.No.79, CT & R(B2) Department dated 23.03.2007, given effect from 01.01.2007.

3.1. The applicant-dealers have solicited the attention of the Authority to another clarification issued by the same authority in ACAAR 86/2012-13 (Acts Cell-II/21441/2014) dated 29-10-2014) regarding rate of tax on "Recharge Vouchers". In the above revised clarification issued, the previous clarification issued on the subject on 14/02/2013 has been reversed, after considering the constitutional validity of the commodity as decided by the Hon'ble Supreme Court of India.

3.2. The applicant-dealers have also stated the following legal issues and decisions of the legal forums of this country-

(A) Legal decisions pronounced by the Honourable Supreme Court of India, in the case of State of Uttar Pradesh and Another's Vs. Laxmi paper Mart and Others, reported in [1997] 105 STC 1 (SC)

(B) Decisions in the case of A.T.B. Mehtab majid & Co. vs. State of Madras [1963] 14 STC 355;[1963] Suppl 2 SCR 435

(C) Decision in the case of Nestle Insia Ltd Vs. State of Uttarkhand and others reported in [2010] 31 VST 404, wherein it has held as "It is settled law that that when two views are possible, one which favours the assessee has to be adopted"

3.3. Based on the above legal decisions and issues, the applicant-dealers have requested the Authority for Clarification and Advance Ruling to re-clarify the decision taken in ACAAR No.09/2014-15 (Acts Cell-II/12442/2014) dated 01.10.2014 as "Student Note Books", whether manufactured in the State or brought from other States would also fall under the general term "exercise note books" exempt from tax as per Sl.No.15 in the list of goods notified in Notified in Notification No.II(1)/CTR/30(a-2)/2007 in G.O.Ms.No.79, CT & R(B2) Department dated 23.03.2007, given effect from 01.01.2007.

4. Section 48-A(4) of the TNVAT Act 2006 provides that the Authority may review, amend, or revoke its clarification or advance ruling at any time for good and sufficient reason after giving opportunity of being heard to the affected parties. The applicant-dealers sought for personal hearing and accordingly they were heard on 10.04.2015. Thiru. Sudantharanathan, the Counsel of the applicant-dealers appeared for the hearing and filed written statements along with documentary evidences.

5. This committee considered the above review applications and the documents filed along with the applications. The contentions made by the learned counsel for the applicants during the personal hearing were also carefully considered and examined the issue with reference to the Schedules and provisions of TNVAT Act, 2006 and notifications issued under the Act.

6. The applicant-dealers have not submitted any new facts, but stated and rely on the legal issues and decisions taken by various legal

forums of this country and request for the reconsideration of the clarification already advanced.

7. In view of the above discussion, this committee views that the grounds taken by the applicant-dealers to review the clarification already issued are not acceptable and hence the review application is rejected.

Dated this the Twenty-Sixth day of October 2016.

Sd/- A. Sarvar Allam,
Additional Commissioner (PR)(FAC)

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

Sd/- Dr.C. Chandramouli, I.A.S
Additional Chief Secretary/
Commissioner of Commercial Taxes

To
Tvl. Vision Stationary Private Limited,
No.8, Kasi Madam Street,
Chidambaram – 608 001

Copy to:
The Assistant Commissioner (CT)
Chidambaram-II Assessment Circle,

The Joint Commissioner (CT),
Vellore 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//

L. J. Narayanan
26/10/16
Commercial Tax Officer