

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.10/2016-17
Acts cell-II/11763/2016

Dated: 11.05.2018

- 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. Nagalakshmi Enterprises(P) Ltd, Off:21 , Old.14. North High Court Colony, Villivakkam, Chennai - 600 049
2.	Registration Certificate No.	:	TIN.No. 33191700397 CST No. 64311
3.	Assessment Circle	:	Villivakkam Assessment Circle
4.	Date of application	:	09-05-2016
5.	Date of receipt of application	:	09-05-2016
6.	Clarification sought for	:	Rate of tax on " Sale of oil cakes including de-oiled cakes "
7.	Date of Personal Hearing	:	--
8.	Represented by	:	--

ORDER

Tvl. Nagalakshmi Enterprises (P) Ltd., Chennai - 600 049 (TIN.No. 33191700397), registered dealers in the files of Villivakkam 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 Tamil Nadu Value Added Tax Rules, 2007 (TNVAT Rules, 2007).

2. The applicant-dealers requested the Authority for clarification on the rate of tax on "**Sale of oil cakes including de-oiled cakes**". The applicant-dealers have stated that they are purchasing Coconut oil cake/de-oiled cake from registered dealers and they are reselling the same to registered dealers in Andhra Pradesh. In the above stated circumstances, the applicant-dealers have sought to clarify whether such inter-state sale of oil cake/de-oiled (a commodity exempted under Commodity code: 766) should be charged 2% VAT against C-form or no tax will be chargeable as the good is an exempted one and hence no C-Form required. The applicant-dealer has also enclosed the literature and details of the oil cake and samples along with the application.

3. The issue has been examined in detail with reference to the provisions of TNVAT Act, 2006 and Rules 2007 and the related 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.

4.1. Entry 66 of Part-B of Fourth Schedule to the TNVAT Act, 2006 reads as follows:

"Sale of oil cakes including de-oiled cakes by any dealer whose total turnover on the sales of these goods does not exceed rupees five hundred crores per year"

The above entry provides a conditional exemption on sale of oil cakes and de-oiled cakes for dealers whose total turnover on the sales of these good does not exceed rupees 500 crores. Such conditional exemptions are applicable for sale of these goods within the state. As per Section 8(2) of the Central Sales Tax Act, 1956, the tax payable by any dealer on his turnover in so far as the turnover or any part thereof relates to the sale of goods in the course of inter-State trade or commerce not falling within sub-section (1), shall be at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sales tax law of that State. As per the explanation provided under Section 8(2), though the dealer not liable under the Sales Tax Law of the appropriate State, under Section 8(2), the dealer is liable to pay tax under the Sales Tax Law of the said State.

The clause "applicable rate of tax" finding place under Section 8(2) of the Central Sales Tax Act, 1956, defines the rate of tax under the State Act in the normal circumstances and not applicable in the case of conditional exemptions provided based on the State's needs. Thus, the conditional exemption included in the Entry-66 of Part-B is applicable only under the state Act for intra-State transactions and

cannot be applied to inter-State transactions to be exempted for which a specific notification has to be issued under section 8(5) of the Central Sales Tax Act, 1956.

Accordingly, the inter-State sale of "Oil cakes including de-oiled cakes" covered by Form-C would attract Central Sales Tax liability @ 2% under Section 8(1) of the Central Sales Tax Act, 1956 and if the inter-State sale is not covered by Form-C, the local rate of 5% under normal circumstances is applicable under Section 8(2) of the Central Sales Tax Act, 1956.

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

- (i). Inter-state sales of "Oil cakes including De-oiled cakes" **would attract 2% under Section 8(1) of the Central Sales Tax Act, 1956 if the transaction is covered by C-form declaration issued by the buyer in other State, and**
- (ii). Inter-state sales of "Oil cakes including De-oiled cakes" **would attract 5% under section 8(2) of the Central Sales Tax Act, 1956 if the transaction is not covered by C-form declarations.**

Dated this the eleventh 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. Nagalakshmi Enterprises (P) Ltd,
Off: 21 , Old.14. North High Court Colony,
Villivakkam, Chennai - 600 049

Copy to:
The Assistant Commissioner (ST),
Villivakkam Assessment Circle.

The Joint Commissioner (ST),
Chennai(Central) 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