



GOVERNMENT OF TAMILNADU  
COMMERCIAL TAXES DEPARTMENT

PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND

ADVANCE RULING

ACAAR No.121/2014-15  
Acts cell-II/30041/2015

Dated:05.03.2019

- Present:**
1. Dr.T.V. Somanathan, I.A.S.,  
Additional Chief Secretary / Commissioner of Commercial Taxes.
  2. Thiru. M. Parameswaran,  
Additional Commissioner, (Public Relations)(FAC)
  3. Dr.C. Palani,  
Additional Commissioner , (Revision Petitions)(FAC)

REVIEW ORDER

- Ref:**
1. Proceedings of the Authority for Clarification and Advance Ruling ACAAR No.121/2014-15 (Acts Cell II/3228/2015) dated 02.09.2015.
  2. Review Application from Tvl. Aurum Dental, Chennai - 600 017 dated 23.09.2015
  3. Order of the Honourable High Court of Madras in W.P No.2966 of 2017 dated 19.04.2018

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Tvl. Aurum Dental, 5/20, Thilak Street, T. Nagar, Chennai - 600 017 (TIN.No. 33121523847), the registered dealer in the files of Pandy Bazaar Assessment Circle have preferred review application on the orders passed by this authority under Section 48-A (4) of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act, 2006) in the proceedings 1<sup>st</sup> cited.

2. On an application made originally by the same applicant dealer, it was clarified in the proceedings 1<sup>st</sup> cited as follows:

**"Prosthetic Teeth/Dentures dealt by the applicants fall under Entry 81 of Part-B of First Schedule to TNVAT Act, 2006 attracting levy of tax at 5%"**

3. The applicant-dealer have requested to review the above clarification and to classify the goods as prosthetic teeth/dentures exempt from tax under Entry 2 of part-B of Fourth Schedule to the TNVAT Act, 2006 under the powers vested in section 48-A(4) of the TNVAT Act, 2006.

4.1. The applicant-dealer sought for personal hearing and accordingly they were heard on 12.01.2017. Dr. Aheela Rahman, Proprietor of the firm

appeared for the hearing and filed written statements along with samples and contended that the ceramic crown/bridge/denture dealt by them is not dental implants. In the meantime, before passing final orders the dealer had filed a Writ Petition No.2966 of 2017 before the Hon'ble High Court of Madras. Since the applicant dealer filed a Writ Petition before the High Court, in view of Section 48-A(2) of the TNVAT Act, 2006, the review application was not processed and kept pending.

4.2. The Hon'ble High Court of Madras vide reference 3<sup>rd</sup> cited, passed orders in W.P No.2966 of 2017 dated 19.04.2018 and instructed the Authority for Clarification and Advance Ruling to consider the petitioner's Review Application and afford an opportunity of personal hearing and pass orders. Accordingly, the petitioner was heard on 25.01.2019. Dr. Faizur Rahman, Prosthodontist and Dr. Aheela Rahman, Proprietor of the firm appeared for the hearing and contended that the dentures dealt by them are not dental implants. They also differentiated that the Prosthesis is customized to the patients, whereas, implants are ready made goods with different sizes and kept in stock. The dealer submitted that the prosthetic teeth/denture dealt by them is exempt from tax.

5. It was already clarified in the proceeding 1<sup>st</sup> cited that the prosthetic teeth and dentures dealt by the applicant dealer are liable under Entry-81 of Part-B of First Schedule to the TNVAT Act, 2006 treating the goods as implants. The applicant dealer have demonstrated with supportive documents and samples that dental implants are different from prosthetic teeth/dentures.

6. Entry-2 of Part-B of Fourth Schedule to the TNVAT Act, 2006 reads as follows:

"Aids and implants for differently abled persons as notified by the Government"

The Government have notified the following goods under the above Entry in G.O Ms No. 3 CT&R (B1) dated 01-01-2007 in Notn.No.II(1)/CTR/(a-3)/2007:

- i) Electrical hearing aids and hearing aid cords.
- ii) Simple spectacles sold to Government for distribution at Government Free Eye Camps.
- iii) Crutches, Wheel chairs, support sticks of all materials, **prosthetics**, artificial limbs and parts and three wheelers with cycle carriage for invalid persons.
- iv) Intra-ocular lenses.
- v) Orthotics.

7. The request of the applicant dealer that their goods can be classified as Aids and implants for differently abled persons as notified above has been examined in the context as to whether replacement of teeth falls under the category of 'Aids and implants for differently abled persons'.



8. The phrase "Differently Abled" means physically or mentally handicapped to show qualities that the able bodied persons do not have.

9. Prosthetics finding place in the above notified goods mean an artificial substitute or replacement of a part of the body such as a tooth, eye, a facial bone, etc.,

10. A dental implant by itself is not a tooth but a prosthesis used to replace missing teeth. Essentially, it is a small Titanium post fixture that is inserted into the jawbone, on top of which a single crown (cap) a fixed bridge, a partial denture, or full denture can be attached.

11. Dental prosthetics bring realistic look, feel and appearance as well as the convenience as compared to traditional dentures. Partial denture can also help improving the speech and therefore can be classified under the category of goods falling under differently abled persons.

12. Since the artificial teeth/denture dealt by the applicant dealer is customized for a particular patient to replace the damaged/fallen teeth, these goods can be classified prosthetic as defined in the notified goods. Hence, this product is construed to fall under Entry-2 of Part-B of Fourth Schedule to the TNVAT Act, 2006.

13. In view of the above discussion, under the power vested in section 48-A(4) of the TNVAT Act 2006, revoking the earlier clarifications issued in the reference 1<sup>st</sup> cited, it is hereby re-clarified that the Prosthetic Teeth/Dentures dealt by the applicant-dealer fall under Entry 2 of Part-B of Fourth Schedule to the TNVAT Act, 2006 read with Government Notification No.II(1)/CTR/(a-3)/2007 published in G.O Ms No. 3 CT&R (B1) dated 01-01-2007 and hence exempt from tax liability under Sec. 15 of the TNVAT Act, 2006.

Dated this the Fifth day of March 2019.

Sd/- M. Parameswaran,  
Additional Commissioner (PR)(FAC)

Sd/- C. Palani,  
Additional Commissioner (RP) (FAC)

Sd/- T.V. Somanathan,  
Additional Chief Secretary/  
Commissioner of Commercial Taxes

To,  
Tvl. Aurum Dental,  
5/20, Thilak Street,  
T. Nagar, Chennai – 600 017

Copy to:  
The Assistant Commissioner (CT)  
Pondy Bazaar Assessment Circle

The Joint Commissioner (CT),  
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 (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//

  
State Tax Officer 05/03/19