

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.126/2015-2016
Acts cell-II/7772/2016

Dated:11.07.2018

- Present:**
1. Dr.T.V. Somanathan, I.A.S.,
Additional Chief 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. T.Stanes and Company Limited, No.8/23-24, Race Course Road, Coimbatore-641 018.
2.	Registration Certificate No.	: TIN : 33771880013 CST : 299463
3.	Assessment Circle	: Trichy Road Assessment Circle
4.	Date of application	: 21.03.2016
5.	Date of receipt of application	: 24.03.2016
6.	Clarification sought for	: Rate of tax on " KURAX "
7.	Date of Personal Hearing	: 03.07.2018
8.	Represented by	: Thiru. K. Rengaraj, Advocate and Counsel of the petitioner

ORDER

Tvl. T.Stanes and Company Limited, No.8/23-24, Race Course Road, Coimbatore-641 018 (TIN 33771880013), registered dealers in the files Trichy Road 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 for the rate of tax on "**KURAX**".

2.2. The applicant-dealers have stated that the product "KURAX" is a herbal based anti-viral formulation meant for Agricultural crops. They have also stated that the commodity is an Anti-Viral for protection of crops. They further stated that their product is exempted from VAT as per entry 38-A of the IV schedule to the TNVAT Act, 2006. To support their stand, the applicant-dealer have enclosed pamphlets describing the product in detail and its usage along with the invoice copy raised to one of their clients Tvl.Pasumal Agro Agencies.

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 pamphlets enclosed by the applicant-dealer revealed the following:-

- a) That this product is a liquid acting as anti-virus for plants like Ladies Finger, Tomato, Brinjal, Papaya, Watermelon, Groundnut, Tapiaco etc.,
- b) That this product acts as an elicitor, stimulating the plant to resist viral infection and prevent proliferation of virus.
- c) That this product is for the foliar application for Bhendi Yellow/Vein Mosaic virus, Potato virus, Tobacco Mosaic virus, Tomato Yellow leaf curl virus and spotted wilt virus.

4.2. At the time of personal hearing, the applicant-dealer put forth the following grounds in support of their claim that the goods dealt by them is exempt for the following reasons :

- a) That their goods fall under the Tariff 3808 99 10 - Pesticides, not elsewhere specified or included.
- b) That the Authority for Clarification and Advance Ruling has already clarified in the case of Tvl.Harith Garden & Pet Clinic in ACAAR No. 43/2016-17, dated 13.04.2017 that "Biocides" are eligible for exemption from VAT liability under Entry 17-A(ii) of Part-B of the Fourth Schedule to the TNVAT Act, 2006.

- c) As the composition of the product is plant extract (50%), Diluted Glycol (20%) and 30% other natural filler/constituents, it has to be treated as the one falling under entry 17-A(ii) of Part-B of the Fourth Schedule to the TNVAT Act, 2006.
- d) "Combinations thereof" mentioned in the entry will be sufficient to accommodate the product under the exemption category.

4.3. The grounds raised by the dealer is examined and observed that the product dealt "KURAX" is definitely not a pesticide as it is prepared out of plant extract where no chemical agents are used in the preparation. Hence, the claim of the applicant-dealer that their product is pesticide and exempted under the TNVAT Act,2006 is not acceptable.

4.4. The advance ruling relied by the applicant-dealer is acceptable only for the period from 12.07.2011 to 29.03.2013 and not thereafter as the entry 17-A(ii) mentioned therein was removed and replaced by entry 38-A wherein it has been clearly specified as "Goods which are used for agricultural / horticultural purposes" by excluding certain goods namely, "disinfectants and gypsum of all forms and descriptions, Anti-sprouting products, Bio fertilizers" and including Bio nutrients. Since the commodity "KURAX" is a herbal based anti-viral formulation used in agricultural and horticultural purposes, it can be brought under the classification of "Herbicides" that continue to exist from 12.07.2011 to 29.05.2013 under Entry 17-A (ii) and under entry 38-A of Part-B of the Fourth Schedule to the TNVAT Act,2006. The other grounds listed in (c) and (d) also contribute to the stand that the goods dealt by them are exempt from tax.

5. In view of the above, it is clarified that "**KURAX**", herbal based anti-viral formulation is exempt from tax under entry 17-A (ii) of Part-B of the Fourth Schedule to the TNVAT Act,2006 during the period from 12.07.2011 to 28.05.2013 and under entry 38-A of Part-B of the Fourth Schedule to the TNVAT Act, 2006 during the period from 29.05.2013 to 30.06.2017.

Dated this the Eleventh day of July 2018.

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. T.Stanes and Company Limited,
No.8/23-24, Race Course Road,
Coimbatore-641 018.

Copy to:

The Assistant Commissioner (ST),
Trichy Road Assessment Circle.

The Joint Commissioner (ST),
Coimbatore 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//

Manus
12/7/18
State Tax Officer