

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

ACAAR No. 127/2013-14.
(Acts Cell – II/7625/2014)

Dated 01.10.2014

Present:

1. Thiru. K.Rajaraman, 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. M-Total Instrumentation Solutions, No.140-B, Venkatasamy Road, New Siddapudur, Coimbatore – 44.
2.	Registration Certificate No.	:	TIN: 33422163397/CST:856564
3.	Date of application	:	21.02.2014
4.	Date of receipt of application	:	05.03.2014
5.	Clarification sought for	:	Rate of tax on sale of "Scientific Laboratory Equipments & Instruments and Machinery & Tools" to Educational Institutions
6.	Date of Personal Hearing	:	28.05.2014
7.	Represented by	:	Thiru. Nazimudeen VAT Practitioner & Authorized Representative

ORDER

Tvl. M-Total Instrumentation Solutions, No.140-B, Venkatasamy Road, New Siddapudur, Coimbatore - 44, (TIN:33422163397), the registered dealers in Scientific Instruments, Laboratory Equipments and Machines a& Tools Instruments, in the files of P.N. Palayam Assessment Circle, Coimbatore, 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. The applicant-dealers have sought for clarification on the following:

Rate of tax on sale of "**Scientific Equipments, Laboratory Equipments and Machinery & Tools**" to Educational Institutions

3.1. The applicant-dealers have sought for personal hearing. The Authority for Clarification and Advance Ruling have convened a meeting for hearing on 28.05.2014 and the applicant-dealers were informed in writing to appear before the Authority on 28.05.2014. Thiru. Nazimudeen, VAT Practitioner and Authorized Representative has represented the applicant-dealer before the Authority on 28.05.2014 and placed the facts relating to the clarification requested.

3.2. The applicant-dealers in their covering letter to their application for clarification have pointed out that they are suppliers of Scientific Equipments & Instruments, Laboratory Equipments and Instruments and Machines & Tools as per the list attached to the application to the recognized Educational Institutions such as Arts & Science Colleges, Engineering Colleges, Polytechnic Colleges, Industrial Training Institutes for their use in connected Departments of Civil, Mechanical, Electrical, Metallurgy, Mechatronics, Manufacturing and Instrumentation Technology. It is being claimed by the applicant-dealers that the above said products would bear every eligibility to be treated as capital goods liable to tax @ 5 % within the scope of Entry 25 of Part-B of First Schedule to the Act read with section 2(11) of the Act. Besides the learned Authorized Representative of the applicant-dealers has pointed out that the above products are otherwise would fall within the scope of the Notification No.II(1)/CTRE/22(a-9)/1997 in G.O. Ms. No.74, CT & RE Department dated 05.03.1997, which is still in force as provided under section 88(3)(i) of the TNVAT Act, 2006, and therefore sale of scientific laboratory equipments and instruments is taxable @ 4 %.

4.1. The issue has been examined in detail with reference to the provisions of TNVAT Act, 2006 and Rules, 2007 and the entries under Parts A and B of First and Fourth Schedules to the TNVAT act, 2006. The Clarification is given accordingly as under

4.2. Section 48-A of TNVAT Act, 2006 provides for clarification on any point concerned with rate of tax for commodities.

4.3. The applicant-dealers have sought for clarification regarding rate of tax on sale of "**Scientific Equipments, Laboratory Equipments and Machinery & Tools**" to Educational Institutions

5.1. There is no specific Entry of the description, "Scientific or laboratory equipments, instruments or apparatus" in any of the Parts of First and Fourth Schedules to the Act. Any commodity or class of commodities, not classified in any of the Schedules to the Act, would fall under the scope and meaning of the Entry 69 of Part-C of the First Schedule to the Act. The Scientific/Laboratory equipments, instruments and apparatuses, since specified nowhere in the Schedules to the Act, such goods are liable to tax @14.5 % as falling under the Entry 69 of Part-C of First Schedule.

5.2. Whereas the expression, "*laboratory equipments*" is found employed in section 2(11)(b) of the Act. The Scientific or laboratory equipments and instruments would acquire the eligibility to be treated as Capital goods to attract tax @ 5 % under Entry 25 of Part-B of First Schedule only when such goods are sold to the industries for use in their Research & Development or Pollution Control laboratory or for Instrumentation. The scientific or laboratory equipments or instruments or apparatus supplied to educational institutions, though being capital assets for them, could not be treated as capital goods for the purpose of taxation under TNVAT Act, 2006.

5.3. However, it is pertinent here to take notice of the reduction in rate of tax on Scientific equipments and instruments to 5 % by Notification No. II(1)/CTRE/75/88 in G.O.P. No.595, CT & RE Department dated 15.04.1988 taken effect from 04.05.1988, the date of publication in Government Gazette dated 04.05.1988. Further the rate of tax on Scientific equipments and instruments has been reduced to 4 % with effect from 05.03.1997 vide Notification No.II(1)/CTRE/22(a-9)/97 in G.O. Ms. No.74, CT & RE Department dated 05.03.1997. The said reduction in rate of tax on the sale of Scientific equipments and instruments by Notification issued under TNGST Act, 1959 is still in force as it is found not repugnant to the provisions of the TNVAT Act as provided under section 88(3)(i) of the TNVAT Act, 2006. In consequent to the increase in base rate of tax from 4 % to 5 % with effect from 12th July 2011 by Notification No. II (1)/CTR/12(R-5)/2011 in G.O. No.No.76 Dated 11th July 2011 (Act No. 30 of 2011), the rate of tax from 4 % on sale of Scientific equipments and instruments has not been increased to 5 % by issuing a fresh notification and repealing the earlier Notification G.O. Ms. No.74, CT & RE Department dated 05.03.1997. The reduced rate of 4 % is therefore to be considered as in force still unaltered and applicable on sale of scientific/laboratory equipments, instruments and apparatuses to recognized Educational Institutions inside the State, as enabled under section 88(30)(i) of the Act.

5.4. Among equipments/instruments of many descriptions found in the list and brochures, furnished by the learned Authorized

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Representative at the time of hearing, relating to the scientific/laboratory equipments, instruments and apparatuses for use in the laboratories of various Departments of Engineering, Polytechnic and Arts & Science Colleges, falling under the following heads alone are eligible to attract the reduced rate of tax on sale of such equipments or instruments or apparatuses to the recognized Educational institutions in the State.

- (i) All kinds of Measuring instruments such as Gauges, Meters, Vernier Caliper, Protractor and Measurement trainer kits,
- (ii) All kinds of Apparatuses, Testing Machines and Testing Kits
- (iii) Subsonic and Supersonic wind tunnels for Aeronautical lab.
- (iv) Hydraulic and Pneumatic trainer kits
- (v) Controller kits of Data logger system

6. Besides, the above the applicant-dealers have requested to clarify the rate of tax for the lathe and other kind of machineries and tools on sale to Educational institutions. Here also it is to mention specifically that the description of the Capital goods under section 2(11) is very particular that the machinery, its spares, components & accessories and tools are to be treated as capital goods only when such goods are sold to industry for use in manufacture or in the processes closely knitted with the manufacture either by the manufacturer directly to the industry or through the supply chain represented by the Distributors or Dealers in such machineries, spares, components & accessories and tools and not on sale to any others like Educational Institutions. However, another point here to mention is that the machinery and tools are another class of goods for which a separate application is necessary as specified in the notes to the application provided at the bottom of the application in Form VV. Therefore the clarification regarding the rate of tax may be restricted to only with reference to the Scientific /Laboratory equipments and instruments.

7. It may therefore be clarified, on the basis of the above observations as below:

- (a) **Scientific/Laboratory equipments and Instruments are taxable at the rate of 14.5 % as an unclassified class of goods falling under Entry 69 of Part-C of First Schedule to the TNVAT Act, 2006.**

- (b) However, Scientific/Laboratory equipments and Instruments are taxable at the reduced rate of 4% as per Notification No. II (1)/CTRE/22(a-9)/97 in GO. No.74, CT & RE Department issued under section 17 of the erstwhile TNGST Act, 1959 read with section 88(3)(i) of the TNVAT Act, 2006, when sold to educational institutions recognised in Tamil Nadu.

Dated this, the 1st day of October 2014.

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

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

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

To
Tvl. M-Total Instrumentation Solutions,
No.140-B, Venkatasamy Road,
New Siddapudur,
Coimbatore - 44.

Copy to
The Assistant Commissioner (CT)
P.N.Palayam Assessment Circle

The Joint Commissioner (CT),
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 (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 File3 / Acts Cell-II / Spare - 5.

//Forwarded/By order//


Additional Commissioner (PR)