

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.131/2014-15
Acts cell-II/4784/2015

Dated:21.02.2018

Present:

- 1.Dr.C.Chandramouli, I.A.S.,
Additional Chief Secretary / Commissioner of State Tax.
- 2.Thiru.M. Parameswaran,
Additional Commissioner (ST), (Public Relation)(FAC)
- 3.Thiru.C. Palani,
Additional Commissioner (ST), (Revision Petition)(FAC)

Sub: TNVAT Act, 2006 – Application under section 48-A seeking clarification of rate of tax on **“Metti, Anklet, Waist-cord made of Silver” and its purchase tax liability** – Reg.

Ref: Application from Tvl. A. Manickam and Co., Shevapettai, Salem, dated 06.02.2015.

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1	Name and address of the Applicant	:	Tvl. A. Manickam & Co, 148, Kabilar Street, Shevapettai, Salem – 2.
2.	Registration Certificate No.	:	TIN:33882640093 CST No:400458
3.	Assessment Circle	:	Shevapettai Assessment Circle, Salem.
4.	Date of application	:	06.02.2015
5.	Date of receipt of application	:	17.02.2015
6.	Clarification sought for	:	Rate of Tax on “Metti, Anklet, Waist-cord made of Silver” and its purchase tax liability ”
7.	Date of Personal Hearing	:	---
8.	Represented by	:	---

ORDER

Tvl. A. Manickam & Co, 148, Kabilar Street, Shevapettai, Salem (TIN. 33882640093) registered dealer in the files of Shevapettai Assessment Circle, Salem have preferred an application in Form 'VV' and sought clarification on rate of tax on **“Metti, Anklet, Waist-cord made of Silver” and its purchase tax liability**” before the Authority for Clarification and Advance Ruling constituted 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 have stated that they are purchasing old silver metti, anklet and waist cord and selling new silver metti, anklet and waist cord manufactured from the purchase of old silver metti anklet and waist cord. Further, they are effecting sale of silver metti, anklet and waist cord purchased as such from unregistered persons.

2.1 The applicant-dealer has stated in their application that the purchase of old silver metti, anklet and waist cord for the manufacture of new silver metti, anklet and waist cord to be exempt from tax as per Notification No. II(1)/CT/19(b-22)/2002 - G.O.Ms.No.33 CT (B2) Department, dated 27.03.2002 and continue to be exempt covered under Section 88(3)(i) of the TNVAT Act, 2006 and the sale of silver metti, anklet and waist cord made of silver is exempt from tax as per Notification No. II(1)/CT/19(b-20)/2002, dated 27.03.2002 are covered under Section 88(3)(i) and under Entry No. 55(a) of Part-B of Fourth Schedule of the TNVAT Act, 2006.

2.2 Now, the applicant have sought for clarification on the rate of tax applicable under TNVAT Act, 2006 on the following transaction:

- (i) Sale of silver metti, anklet and waist cord purchased as such from un-registered dealers;
- (ii) purchase of old silver metti, anklet and waist cord for the manufacture of new silver metti, anklet and waist cord; and
- (iii) Sale of new silver metti, anklet and waist cord manufactured out of old silver metti, anklet and waist cord.

and also requested to clarify **"whether purchase tax under Section 12 will attract for."**

3. This Committee considered the above application and documents filed along with the application carefully and examined the issue with reference to the Schedules and provisions of TNVAT Act, 2006 and notifications issued under the TNGST Act, 1959.

4. As per Entry No.4 of Part-A of First Schedule to the TNVAT Act, 2006, "worn out and beaten jewellery" is liable to tax @ 1% at the point of sale. Under TNGST Act, 1959, following notification issued.

(i) Notification No. II(1)/CT/19 (b-22)/2002 - G.O.Ms.No.33 CT (B2) Department, dated 27.03.2002: Exemption granted in respect of the tax payable by any dealer on the purchase of the goods "old silver metti, anklet and waist cord purchased for the manufacture of silver metti, anklet and waist cord".

(ii) Notification No. II(1)/CT/19(b-20)/2002, dated 27.03.2002: Exemption granted on the sale of metti, anklet and waist cord made of silver.

However in a similar clarification issued by the Committee in vide ACAAR No.35/2014-15(Acts cell-II/19438/2014), dated 25.10.2016, it was clarified at para 6 [page 3] as below:-

"6. In view of the above discussion, it is therefore clarified that the purchase of "Old Silver Golusu" by dealers in jewellery would attract purchase tax at 1% under Section 12(a) of the TNVAT Act read with Entry-4 of Part-A of First Schedule to the TNVAT Act, 2006."

4.1 The above clarification issued in the case of Tvl. Baskar Jewellery, Virudhunagar without consideration of the fact of Notification No. II(1)/CT/19(b-22)/2002 - G.O.Ms.No.33 CT (B2) Department, dated 27.03.2002. Whereas, in the

Government Letter No. 24912/B2/2006, dated 29.12.2006, it has been instructed that notification issued under TNGST Act, 1959 shall continue in force under TNVAT Act, 2006 also. This instruction issued only with reference to Section 88(3)(i) of the TNVAT Act, 2006.

4.2 A careful reading of Section 88(3)(i) of the TNVAT Act, 2006, reveals that rules, regulations, notification, etc., issued or made under TNGST Act, 1959 continuing in force on the date immediately before the commencement of TNVAT Act, 2006 shall continue in force under TNVAT as long as they not inconsistent with the provisions of the TNVAT Act or rules made thereunder until they are repealed or amended.

4.3 Under TNGST Act, 1959, worn out or beaten jewellery is taxable at 1% at the point of last purchase as per Sl. No. 2 of Part A of the First Schedule.

In the present case, if the notification issued under TNGST Act, 1959 is followed then it will be inconsistent to the provision of TNVAT Act, 2006 and rules which prescribes levy of tax at 1% on the sale of worn out and beaten jewellery.

Further, the entry found in Sl. No. 4 of Part A of First Schedule of TNVAT Act, 2006 being worn out and beaten jewellery comprises worn jewellery made up of silver, gold, diamond, platinum etc., and includes metti, anklet and waist cord requested by the dealers.

5. In view of the above discussion, it is therefore clarified that under the Tamil Nadu Value Added Tax Act, 2006

- i. sale of metti, anklet and waist cord is exempt as per Sl. No. 55(a) of Part B of the Fourth Schedule;
- ii. Purchase tax liability under Section 12 on metti, anklet and waist cord at 1% as per Sl. No. 4 of Part A of the First Schedule, if such worn out goods are purchased from un-registered sources; and
- iii. Sale of worn out metti, anklet and waist cord taxable at 1% as per Sl. No. 4 of Part A of the First Schedule.

Dated this the 21st day of February, 2018.

Sd/- M. Parameswaran
Additional Commissioner
(Public Relation)(FAC)

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

Sd/- Dr. C. Chandramouli,
Additional Chief Secretary/
Commissioner of State Tax

To: Tvl. A. Manickam & Co,
148, Kabilar Street,
Shevapettai, Salem - 2.

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

The Joint Commissioner (ST), Salem Division.

The Joint Commissioner (CS) **To host in the Department Website**

The Additional Chief 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,
State Tax Officers in CST's Office.
Personal Clerk to the Additional Chief Secretary / Commissioner of State Tax.
Stock File 3/ Acts Cell-II /Spare - 5.

//Forwarded/by Order//

16. D. Srinivasan
Assistant Commissioner (State Tax)

23/11/18

23-2-18