

**GOVERNMENT OF TAMILNADU  
COMMERCIAL TAXES DEPARTMENT**

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

**ACAAR No.134/2013-14**  
**Acts cell-II/22788/2016**

Dated:26.07.2018

- 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 Rulings in ACAAR.134/2013-14 (Acts Cell-II/8804/2014) to Tvl. Mitsubishi Heavy Industries India Precision Tools Limited, Ranipet - 632 403 dated 23.10.2014
  2. Review application in Form VV received from Tvl. Mitsubishi Heavy Industries India Precision Tools Limited, Ranipet - 632 403 on 19-08-2016.

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Tvl. Mitsubishi Heavy Industries India Precision Tools Limited, No.2, SIPCOT Industrial Complex, Ranipet - 632 403 (TIN:33604362385), registered dealers in the files of Ranipet (SIPCOT) Assessment Circle have preferred application under Section 48-A (4) 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) for review of clarification already advanced vide proceedings 1<sup>st</sup> read above.

2. On an application U/s 48(A)(1) by the same applicant-dealers, it was clarified in the proceedings 1<sup>st</sup> cited as follows:

**"The clarification is therefore that that the "Cutters/Tools" generally known as Gear cutting tools and Broaches, are taxable @ 5 %, specifically as capital goods under Entry 25 of Part-B of**

**First Schedule, read with section 2(11) of the TNVAT Act, 2006, since being parts of CNC Lathe Machines if sold in the State of Tamil Nadu and @14.5% if sold otherwise to other States without 'C' Form."**

3. Aggrieved on the above clarification, the applicant-dealers have filed the review application vide reference 2<sup>nd</sup> cited to this office on 19-08-2016. The applicant-dealers have sought to review the earlier clarification on the following ground:

- i) The "**Cutters/Tools**" **generally known as Gear cutting tools and Broaches** are not the parts of CNC Lathe Machines and hence they are not parts of capital goods. These Tools/cutters are used as consumables by Gear Manufacturers and they are falling under ITC HSS code Excise chapter No:8207 70-Tools for milling, Excise chapter No:8207 7010 – Cutters and Excise Chapter No:8207 6090 – Other(Master Gear).

For the above said reasons, the applicant-dealers have prayed that the Tools/cutters may be classifiable under Entry 138 of part-B of First Schedule to the TNVAT Act, 2006 and would attract only 5% tax for interstate sales without C form and not at 14.5%.

4.1 This committee considered the above application and the documents filed along with the application carefully and examined the issue with reference to the Schedules and provisions of TNVAT Act, 2006, Rules made thereunder and notifications issued under the Act.

4.2. The contentions of the applicant dealer are discussed as follows:

- i) The cutters / tools such as Hob, Shaping Cutter, Gear Shaving Cutter, Broaches, Master Gear, Rotary Cutter, Rack milling cutter, Swaging cutter etc., as per the brochure furnished along with applications revealed the following position that are tabulated below.

<b><u>Tool Category</u></b>	<b><u>Product Line up</u></b>	<b><u>Mounted on/Consumed by</u></b>
Hob	<ul style="list-style-type: none"> <li>• Gear Hob</li> <li>• Involute Spline Hob</li> <li>• Parallel Spline Hob</li> <li>• Sprocket Hub</li> <li>• Timing belt pulley Hob</li> <li>• Serration Hob</li> <li>• Worm Wheel Hob</li> </ul>	Gear Machine      Hobbing
Shaping Cutter	<ul style="list-style-type: none"> <li>• Gear Shaper</li> </ul>	Gear      Shaping

	<ul style="list-style-type: none"> <li>Spur</li> <li>Helical</li> <li>Sprocket Shaper</li> </ul>	Machine
Gear Shaving Cutter	<ul style="list-style-type: none"> <li>Conventional diagonal</li> <li>Under-pass</li> <li>Plunge-cut</li> </ul>	Gear Shaving Machine or
Broach	<ul style="list-style-type: none"> <li>Spline Broach</li> <li>Serration Broach</li> <li>Surface Broach</li> <li>Keyway Broach</li> <li>Round Broach</li> </ul>	Broaches are divided into two groups: the internal broaches for making spline holes used to process automobile reducers and machine tools, and the surface broaches for processing the surface of specially shaped parts used to process the turbine blade grooves of power generator and jet engine and various kinds of industrial machine.
Master Gear	<ul style="list-style-type: none"> <li>Spur</li> <li>Helical</li> </ul>	The master gear is used as a master for engagement tester or for comparison measurement of tooth thickness
Others	<ul style="list-style-type: none"> <li>Chamfering cutter/ Deburring cutter</li> </ul>	The chamfering cutter is used for chamfering gear edge of automobile and motorcycle reducers
	<ul style="list-style-type: none"> <li>Rotary cutter for straight Bevel gear</li> </ul>	--
	<ul style="list-style-type: none"> <li>Rack Milling cutter (Ground form)</li> </ul>	--

An analysis of the above table revealed that the above tools/cutters are used as consumables in Hobbing cutters (gear cutting machines)/gear shaving machines/gear shaping machines or any machines specified for the purpose by the gear manufacturers and thus are consumables to Gear Manufacturers and are not used as parts of CNC Lathes and **hence they are not classifiable as parts of capital goods, as contended by the applicants.**

- ii) Entry 138 of Part-B of First Schedule with the description, "Tools" is of wide connotation to include every kind of tools, that is to say, manually operated hand tools, Hand held Power tools, tools operated by pneumatic, hydraulic and electrical power and machine tools. Hence the cutters / tools such as Hob, Shaping Cutter, Gear Shaving Cutter, Broaches, Master

Gear, Rotary Cutter, Rack milling cutter, Swaging cutter etc., are classifiable under the above Entry liable to Vat at 5%.

4.3. It is also essential to point out that in ACAAR. No.59/2014-15 (Acts cell-II/26152/2014) dtd.24/09/2014, it had been clarified in the case of Tvl. Phoenix Agencies that "Power Tools" are taxable at 5% under Entry 138 of Part-B of First Schedule to the TNVAT Act, 2006.

5. In view of the above discussion, under the powers vested in section 48-A(4) of TNVAT Act 2006, revoking the earlier clarifications issued in the reference 1<sup>st</sup> cited, it is re-clarified that the **"Cutters/Tools" generally known as Gear cutting tools and Broaches, are taxable @ 5 %, under Entry 138 of Part-B of First Schedule to the TNVAT Act, 2006, if sold within the State.** However, Inter-State sale of the above products covered by Form-C would attract CST liability at 2% under Sec. 8(1) of CST Act, 1956 and if the inter-State sale is not covered by Form-C, the local rate of 5% is applicable under Sec. 8(2) of CST Act, 1956.

Dated this the Twenty Sixth 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. Mitsubishi Heavy Industries  
India Precision Tools Limited,  
No.2, Sipcot Industrial Complex,  
Ranipet, PIN – 632 403

Copy to:  
The Assistant Commissioner (CT)  
Ranipet (Sipcot) Assessment Circle,

The Joint Commissioner (CT),  
Vellore 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**