

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.137/2014-15.
Acts cell-II/7625/2014

Dated:25.10.2016

- Present:**
1. Dr. C. Chandramouli, I.A.S.,
Additional Chief Secretary / Commissioner of Commercial Taxes.
 2. Thiru. A. Sarvar Alam,
Additional Commissioner (CT), (Public Relations)(FAC)
 3. Thiru. K. Mahalingam,
Additional Commissioner (CT), (Revision Petitions)

1	Name and address of the Applicant	:	Tvl. S.K.Cars India Pvt Ltd No.3/392,S.K.Complex, Seelanaickenpatti Salem-636 201.
2.	Registration Certificate No.	:	TIN.No.33542701778 CST.703791
3.	Assessment Circle	:	Assistant Commissioner(CT) Salem Rural Assessment Circle,
4.	Date of application	:	03.03.2015
5.	Date of receipt of application	:	10.03.2015
6.	Clarification sought for	:	Rate of Tax on " Sale of used/Reconditioned Cars. "
7.	Date of Personal Hearing	:	-----
8.	Represented by	:	-----

ORDER

Tvl. S.K.Cars India Pvt Ltd, Salem (TIN. No. 33542701778), the registered dealers in the files of Salem Rural 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 Tamil Nadu Value Added Tax Rules, 2007 (TNVAT Rules, 2007).

2.1. The applicant-dealers have stated that they are authorized dealers for selling new cars of Maruti Suzuki of all types and models and they were also Authorized licensee under Maruti True Value Cars, which sells the second hand re-conditioned cars as per specifications given by Maruti Suzuki Company. While selling the New Cars to regular customers they collect tax of 12.5% upto 11.07.2011 & 14.5% from 12.07.2011 and after setting off the entry taxes on it.

2.2. In the business of used cars, it is stated that they purchase the "used cars" from the customer. Then, the "used car" are re-conditioned by using necessary spare parts from their stock which also suffers regular rate of tax for spare parts. Then the re-conditioned vehicle after re-painting is sold for a value to new customer. In the above said circumstances, the applicant-dealers have stated that they were paying tax on the "value addition only without input tax credit" at the rate of 4% upto 11.07.2011 and at the rate of 5% from 12.07.2011.

2.3. But the Assessing Authority has charged the rate of tax of 14.5% on the "entire sale value of the second hand used cars" sold by them by relying on the Notification published in G.O.Ms.No.36, CT&R (B2), dated 01.04.2008 in Notn.No.II(1)/CTR/11(b-7)/2008 and subsequent Notification published in G.O.Ms.No.78, CT&R (B2) Dept, dated 11.07.2011 in Notn.No.II(1)/CTR/12(R-25)/2011. Hence the applicant-dealers have requested the Authority for clarification and

Advance ruling to clarify the rate of tax on "**Sale of used Re-conditioned Cars**".

3. 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 and notifications issued under the Act.

4. There are two sets of notifications issued with regard to sale of used cars and other motor vehicles reducing the rate of tax. One for dealers in motor vehicles and another for any dealer other than dealer in automobiles, including commercial vehicles, as noted below:

For Dealers in automobiles:

- (i). Notification No.II(1)/CTR/30(a-5)/2007 in G.O.Ms.No.79 CT&R(B2) Dept, dated 23.03.2007 makes **reduction in the rate of tax payable by any dealer on the sale of Used cars/Motor vehicles on value addition without input tax credit to 4%.**
- (ii). Notification No.II(1)/CTR/12(R-20)/2011 in G.O.Ms.No.78, CT&R (B2) Dept, dated 11.07.2011 makes **reduction in the rate of tax payable by any dealer on the sale of the above good to 5%.**

For dealers not dealing in automobiles:

- (i). Notification No.II(1)/CTR/11(b-7)/2008 in G.O.Ms.No.36, CT&R (B2), dated 01.04.2008 - **reduction from 12.5% to 4% in respect of tax payable by any dealer other than dealer in automobiles including commercial vehicles, two wheelers and three wheelers, on the sale of used motor vehicles.**

- (ii). Notification No.II(1)/CTR/12(R-25)/2011 in G.O.Ms.No.78, CT&R (B2) Dept, dated 11.07.2011 **makes a reduction from 14.5% to 5%.**

5. The applicant dealers are dealers in automobiles and hence the first set of notifications is applicable to them. Hence, in view of the above discussion, this committee clarifies that the **"Sale of used and re-conditioned Cars"** by the applicant-dealers being a registered automobile dealers are liable to tax **on value addition without input tax credit and not on entire sale value** at 4% upto 11.07.2011 as per Notification No.II(1)/CTR/30(a-5)/2007 in G.O.Ms.No.79 CT&R(B2) Dept, dt. 23.03.2007 and at 5% from 12.07.2011 onwards as per Notification No.II(1)/CTR/12(R-20)/2011 in G.O.Ms.No.78, CT&R (B2) Dept, dated 11.07.2011.

Dated this the Twenty-Fifth day of October 2016.

Sd/- A. Sarvar Allam,
Additional Commissioner (PR)(FAC)

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

Sd/- Dr.C. Chandramouli, I.A.S
Additional Chief Secretary/
Commissioner of Commercial Taxes

Tvl. . S.K.Cars India Pvt Ltd
No.3/392,S.K.Complex,
Seelanaickenpatti
Salem-636 201.

Copy to:
The Assistant Commissioner (CT)
Salem Rural Assessment Circle

The Joint Commissioner (CT),
Salem 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.

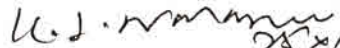
The Accountant General (Audit)-II, No.44, Greams Road, Chennai - 6.

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 /

//Forwarded/By Order//


Commercial Tax Officer 28/2/16