

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.138/2013-14
Acts Cell-II/9474/2014

Dated:25.10.2016

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

REVIEW ORDER

- Ref:**
1. Proceedings of the Authority for Clarification and Advance Ruling ACAAR No.138/2013-14 (Acts Cell-II/9474/2014) dated 18.09.2014.
 2. Review Application from Tvl. Linde India Limited, Chennai - 600083 dated 01.10.2014

Tvl. Linde India Limited, # No.5, Old No.4, 54th Street, 9th Avenue, Ashok Nagar, Chennai-600 083. (TIN:33291200016), registered dealers in the file of Assistant Commissioner(CT) Mylapore Assessment Circle have preferred review 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 reference 1st read above.

2. The rate of tax in respect of Industrial Oxygen was clarified in the proceedings of the Authority for Clarification and Advance Ruling, hereinafter to be referred as Authority, first read above as detailed below:

'Industrial Oxygen' is liable to VAT at the rate of 5% under Entry 67-A(p) of Part-B of First Schedule to the TNVAT Act, 2006.

3. The applicant-dealer has requested to review the above clarification and insisted that it may be re-clarified that Industrial Oxygen is liable to tax @ 5% under S.No.67 (A)(p) of Part-B of First Schedule to the TNVAT Act, without any usage certification by the buyers as prescribed in Rule 6 (3)(b) of TNVAT Rules, 2007.

4. Section 48-A(4) of the TNVAT Act, 2006 provides that the Authority may review, amend, or revoke its clarification or advance ruling at any time for good and sufficient reason after giving opportunity of being heard to the affected parties. The applicant-dealers sought for personal hearing and accordingly they were heard on 13.08.2014 @ 04.00 PM. Thiru. Mohammed Shaffig, the Counsel of the applicant-dealers appeared for hearing and filed written statements along with documentary evidences. At the time of hearing, the learned counsel stated that the clarification already advanced is correct; however he insisted that it may be clarified specifically that for availing 5% rate of tax, no certificate is required to be issued as prescribed under rule 6(3)(b) of TNVAT Rules, 2007.

5. The Certificate mentioned by the applicant-dealers as prescribed in Rule 6(3)(b) of TNVAT Rules 2007 is applicable only for industrial input falling under Entry-67 of Part-B of First Schedule to the TNVAT Act, 2006, wherein the goods are not enumerated. When a clarification has been issued that the Industrial Oxygen dealt by the applicant would fall under Entry 67(A)(p) of Part B of First Schedule to the TNVAT Act 2006, it need

not be further clarified that the above certificate is not required, as the foods falling under the above Entry are generally liable at 5% and the certificate prescribed in Rule 6(3)(b) of TNVAT Rules 2007 is not applicable to these specifically enumerated goods.

6. Therefore, the clarification already issued has no infirmities and need not be reviewed. Hence the above review application is rejected.

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

To
Tvl. Linde India Limited,
No.5, Old No.4, 54th Street,
9th Avenue, Ashok Nagar,
Chennai-600 083.

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

The Joint Commissioner (CT),
Chennai (East) 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//

C. J. Naranjo
75/16
Commercial Tax Officer