

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.16/2015-16
Acts cell-II/12761/2015

Dated: 25.04.2018

- Present:**
1. Dr.T.V. Somanathan, I.A.S.,
Principal Secretary / Commissioner of Commercial Taxes.
 2. Thiru M. Parameswaran,
Additional Commissioner (ST), (Public Relations)(FAC)
 3. Thiru C. Palani,
Additional Commissioner (ST), (Revision Petition)(FAC)

1	Name and address of the Applicant	:	Tvl. Balaji Solutions Pvt Limited, No. 6/34, Sunguvar Agaram Street, Ground Floor, Chennai - 600 002.
2.	Registration Certificate No.	:	TIN.No.33561141328 CST. 955901
3.	Assessment Circle	:	Chintadripet Assessment Circle
4.	Date of application	:	27-04-2015
5.	Date of receipt of application	:	27-04-2015
6.	Clarification sought for	:	Rate of Tax on "Micro S.D Cards for Mobile Phone"
7.	Date of Personal Hearing	:	---
8.	Represented by	:	---

ORDER

Tvl. Balaji Solutions Pvt Limited., Chennai - 600`002 (TIN.No. 33561141328), the registered dealers in the files of Chintadripet Assessment Circle, Chennai 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 rate of Tax on **"Micro S.D Cards for Mobile Phone"**

3.1. The issue has been examined in detail with reference to the provisions of TNVAT Act, 2006 and Rules 2007 and the related entries regarding the commodities classified under the relevant Schedules to the TNVAT Act, 2006. Section 48-A of the TNVAT Act, 2006 provides for clarification on any point concerned with rate of tax for commodities.

3.2. The applicant dealer had sought for clarification regarding rate of tax on **"Micro S.D Cards for Mobile Phone"**. The commodity Cellular telephones (Mobile Phones) were liable to tax @ 14.5% during the period from 12.07.2011 to 31.03.2015 vide Entry 13-A of Part-C of the First Schedule to the TNVAT Act, 2006 as inserted by Act No. 30 of 2011. The parts and accessories of Cellular Telephones are also specified under sub-entry (vi) of Entry 13-A of Part-C of the First Schedule to the Act and are liable to tax @ 14.5% during the said period.

3.3. Subsequently, the rate of tax for Cellular Telephone (Mobile Phones) alone is reduced from 14.5% to 5% under Section 30 with effect from 01.04.2015 by Notification No. II(2)/CTR/143(a-3)/2015 in G.O.Ms.No. 45 (CT&R (B1) Department, dated 25.04.2015. But the parts and accessories of Cellular Telephones are not covered under the same Notification. Therefore, the rate of tax for the parts and accessories of Cellular Telephones (Mobile phone) still stands to be @ 14.5%. Besides, it is pertinent to state that the proviso to Section 3(2) of the TNVAT Act is applicable only in respect of parts and accessories of such commodities enumerated under the First Schedule, if the parts and accessories of such commodities are not specified within such entry. The said proviso to Section 3 (2) of the Act cannot be applied in the case of reduction in rate of tax by Notification under Section 30 where parts and accessories of the commodity for which the rate of tax is notified to be reduced has not been specified. Hence, it is very clear that **"Micro SD Cards for Mobile Phone"** is liable to tax @ 14.5% as per Entry 13-A (vi) of Part-C of the First Schedule to the TNVAT Act, 2006.

3.4. The Hon'ble Supreme Court in Civil Appeal Nos. 11486-11487 of 2014, dated 17.12.2014, relating to rate of tax on Cell phone charger, has held that Cell phone charger is not a part to cell phone and is also not a composite part to cell phone but an independent product that can be sold separately, without selling the cell phone and therefore, the reduced rate of tax not applicable to cell phone charger. On applying the principles laid down by the Hon'ble Supreme Court in the above said judgment, the parts and accessories of any Cellular Telephone (Mobile Phone) being Micro SD Cards can be sold separately and not as a composite part to cell phone and are therefore construed to be separate products falling under Entry 13-A (vi) of Part-C of First Schedule to the TNVAT Act, 2006.

4. Hence, it is clarified that **"Mobile Phone – Accessories and Components viz., Micro S.D. Card"** is liable to tax at 14.5% as per Entry 13-A (vi) of Part-C of First Schedule to the TNVT Act, 2006 with effect from 12.07.2011."

Dated this the twenty fifth day of April 2018.

Sd/- M. Parameswaran,
Additional Commissioner (PR)(FAC)

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

Sd/- Dr. T.V. Somanathan,
Principal Secretary/
Commissioner of Commercial Taxes

To
Tvl. Balaji Solutions Pvt Limited ,
No. 6/34, Sunguvar Agaram Street,
Ground Floor,
Chennai – 600 002.

Copy to:
The Assistant Commissioner (CT)
Chintadripet Assessment Circle

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

[Signature]
State Tax Officer
25/04/18

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25/4/18