

**GOVERNMENT OF TAMIL NADU
COMMERCIAL TAXES DEPARTMENT**

**PROCEEDINGS OF THE
AUTHORITY FOR CLARIFICATION AND ADVANCE RULING**
(Under Section 48-A of TNVAT Act, 2006)

- Present:**
- 1. Thiru K. Rajaraman, I.A.S.,
Principal Secretary/
Commissioner of Commercial Taxes,**
 - 2. Thiru R. Vayanaperumal, B.Sc.,M.A.,
Additional Commissioner (PR)(FAC)**
 - 3. Thiru. K. Mahalingam, M.Sc.,
Additional Commissioner (RP)**

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A.C.A.A.R 19/ 2013-14

Dated 06,03.2014

1	Name of the Applicant	:	Tvl.Hotel Saravana Bhavan, No.19, Vadapalani Aandavar Kovil Street, Vadapalani, Chennai - 26.
2.	Registration Certificate No.	:	TIN:33741460553
3.	Name of the Assessment circle	:	Vadapalani - I
4.	Date of application	:	29.05.2013
5.	Date of receipt of application	:	29.05.2013
6.	Clarification sought for	:	Whether Service Tax component on sale of Food and Drinks is liable to VAT
7.	Represented by	:	Thiru. M.Muruganandhan, Senior Accounts Executive & Authorized Representative

Tvl. Hotel Saravana BHavan, @ No.19, Vadapalani
Aandavar Kovil Street, Vadapalani, Chennai - 600 026,

2. They have sought for clarification on the following:

“Whether Service Tax component at the rate of 4.94 % on 40 % of the cost of the food served in their Air-conditioned restaurants will form part of the price for such foods and liable to tax”

3. Section 48-A was inserted under TNVAT Act, 2006 by Act No.26 of 2011 to constitute a State Level Authority for Clarification and Advanced Ruling to clarify any point concerning the rate of tax on an application by a registered dealer.

4. The Applicant-dealers have stated in the Annexure to their application for clarification that they have been brought under the net of Service Tax as per Central Government Notification No.03/2013-ST dated 1st March 2013, since they are serving foods and drinks in their Air-conditioned restaurants. The service tax is being charged at 4.94 % on the 40 % of the bill for the foods and drinks served in their Air-conditioned restaurants to their customers as per Rule 2C of Service Tax (Determination of Value) Rules. On that basis, the applicant dealer have applied that they may be clarified regarding inclusion or non-inclusion of the service tax so charged into the price of the foods and drinks served for the purpose of levy and collection of VAT on the foods and drinks served to their customers in their Air-conditioned restaurants.

5. At the time of personal hearing, the applicant-dealers were represented by Thiru. M.Muruganandan, Senior Accounts Executive and Authorized Representative of the applicant-dealers. The Authorized Representative of the applicant dealers has expressed that they are actually charging VAT on the gross price for the foods and drinks served to the customers in their Air-conditioned restaurants, which is inclusive of the service tax charged at 4.94% on 40 % of the cost of the foods and drinks served. The copies of sale bills enclosed along with the application reveals the same fact of collecting VAT on the gross price, which is inclusive of the service tax charged, for the foods and drinks served in their air-conditioned restaurants.

6. Section 48-A(1) of the TNVAT Act, 2006 is very specific that the application seeking clarification in respect of rate of tax for specific commodity is alone preferable and eligible to be entertained for clarification by the Authority for Clarification and Advanced Ruling. The clarification sought for by the applicant dealer is concerned with the procedural aspect, especially arriving at the gross invoice price for the foods and drinks served in their air-conditioned restaurants, either by including or not including the service tax charged on the service

component of the foods and drinks served, for the purpose of levy and collection of VAT. Hence, the clarification sought for by the applicant dealer would not fall within the scope of section 48-A of the TNVAT Act, 2006. Thus it is adjudged that the application preferred by the applicant dealers is not eligible to be entertained.

Accordingly the application is disposed off.

R. Vayanaperumal,
Additional Commissioner (PR) (FAC)

K. Mahalingam,
Additional Commissioner (RP)

K. Rajaraman,
Principal Secretary/
Commissioner of
Commercial Taxes

To
Tvl. Hotel Saravana Bhavan,
No.19, Vadapalani Aandavar Kovil Street,
Vadapalani,
Chennai - 26.

Copy to:
The Assistant Commissioner (CT)
Vadapalani - I Assessment Circle.

The Joint Commissioner (CT),
Chennai (Cental) 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 File3 / Acts Cell-II / Spare - 5.

/Forwarded/By order//


Additional Commissioner (PR) (FAC)