

PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND ADVANCE RULING	
ACAAR No.22/ 2014-15. (Acts Cell – II/16612/2014)	Dated 08.12.2014
Present:	1. Thiru. K.Rajaraman, I.A.S., Principal Secretary / Commissioner of Commercial Taxes. 2. Thiru. R.Vayanaperumal, Additional Commissioner (CT), (Public Relations) 3. Thiru. K.Mahalingam, Additional Commissioner (CT), (Revision Petitions)
1. Name and address of the Applicant	: Tvl. Benz Fishing Baits Pvt. Ltd., No.45/6, Raasi Vinayagar Street, Shanmugam Nagar, Guduvancherry.
2. Registration Certificate No.	: TIN:33040941406 / CST: 694309
3. Date of application	: 23.05.2014
4. Date of receipt of application	: 26.05.2014
5. Clarification sought for	: Rate of Tax on "Non-Alcoholic Beverage (Non-alcoholic Red wine) with Brand Name.
6. Date of Personal Hearing	: 21.10.2014
7. Represented by	: Thiru. R.Ramaesh Rajan, The Director.

ORDER

Tvl. Benz Fishing Baits Pvt. Ltd., No.45/6, Raasi Vinayagar Street, Shanmugam Nagar, Guduvancherry., (TIN: 33040941406), a registered dealer in fishing baits and non-alcoholic beverage (Red Wine) in the files of Tambaram-II Assessment Circle, Tambaram, 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 following:

Rate of tax on "**Non-alcoholic Beverage (Red Wine)**" sold with a brand name.

3. The Authority for Clarification and Advance Ruling needs certain information regarding the nature of the Red wine, claimed to be a non-alcoholic beverage, in order to ascertain, "whether the red wine is non-alcoholic? The applicant-dealers are therefore officially informed by a notice to appear before the Authority on 14.10.2014. Thiru. R.Ramesh Rajan, the Director of the Applicant-company has appeared before the Authority and explained that they are licensed manufacturer of Red Wine – a Non-alcoholic Beverage under License No.12414008000853 dated 27.03.2104 issued by the Designated Officer, Food Safety Wing, Tamil Nadu Food Safety & Administration Department, Kancheepuram District, under Food Safety and Standards Act, 2006. The applicant-dealers have claimed that they are manufacturing red wine out of black grapes, sugar and Water, without any artificial fermentation. The Director of the applicant-company has also stated that the natural grape wine with the alcohol content up to a level of 2 % is held to be non-alcoholic as per food standards and safety requirements. He has also furnished a Laboratory Analytical Report from King Institute, Guindy, Chennai which reveals the alcohol content only at 2 %.

4. The issue has been examined in detail with reference to the provisions of TNVAT Act, 2006 and Rules, 2007 and the related Entries First and Fourth Schedules to the TNVAT Act, 2006. Section 48-A of TNVAT Act, 2006 provides for clarification on any point concerned with rate of tax for commodities. The clarification sought for by the applicant-dealers herein is concerned with the rate of tax on **"Red Wine – a Non-alcoholic Beverage"** marketed with a brand name.

5. **"Non-alcoholic Beverages sold without brand name"** are taxable at 5 % on sale inside the State, as per Entry 88 of Part-B of First Schedule to the TNVAT Act, 2006. No other entries are seen as related to the Non-alcoholic Beverages sold with Brand name either in Part-B or Part-C of First Schedule to the Act. The Non-alcoholic Beverages sold with a Brand name would therefore fall under Entry 69 of Part-C of First Schedule to the Act, as an item not classified in any of the Schedules to the Act; and thus attract the tax liability at 14.5 % on sale inside the State. The Red Wine is being manufactured by the applicant-dealers under the License issued by the Designated Officer under Food Safety and Standards Act, 2006. As per Section 3 in Chapter 1 of the Alcohol Act, 2001, **non-alcoholic beverage** means a beverage which contains a maximum of 2.8% by volume ethyl alcohol. As per SRO No.A-36(a)/2006 as issued under Tamil Nadu Wine (Manufacture) Rules, 2006 read with Section 54 of The Tamil Nadu Prohibition Act of 1957 (Tamil Nadu Act X of 1937), the wine is defined under Section 2 (o) as extracted below:-

"Wine means the **fermented juice of grapes** or other ripe fruits with or without the addition of sugar or jiggery, containing self-generated alcohol and includes Fruit Wine, Fortified wine, Sparkling Wine and Champagne."

6. Alcoholic wine as defined as above contains the self-generated alcohol more than 2.8% by volume. It has also been certified by the Kings Institute that the product of the petitioners is a non-alcoholic beverage as per its laboratory analytical report. On the above, it is construed that **"Red wine - non-alcoholic beverage"** manufactured and marketed by the dealer-applicant under a brand name falls under the entry 69 of Part-C of First Schedule to the TNVAT Act, 2006 and attracts the tax at 14.5 %.

7. The clarification is therefore that the **"Red Wine" – a Non-alcoholic Beverage sold with the brand name is taxable @ 14.5 % under Entry 69 of Part-C of First Schedule** to the TNVAT Act, 2006.

Dated this, the 8th Day of December, 2014.

R. Vayanaperumal,
Additional Commissioner (PR)

K. Mahalingam,
Additional Commissioner (RP)

K. Rajaraman,
Principal Secretary/
Commissioner of Commercial Taxes

To

Tvl. Benz Fishing Baits Pvt. Ltd.,
No.45/6, Raasi Vinayagar Street,
Shanmugam Nagar,
Guduvancherry.

Copy to:

The Assistant Commissioner (CT)
Tambaram 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 File3 / Acts Cell-II / Spare – 5.

//Forwarded/By order//


Additional Commissioner (PR)