

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.22/2016-2017
Acts cell-II/13869/2016

Dated:13.06.2018

- 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. Dr. C. Palani,
Additional Commissioner (ST), (Revision Petitions)(FAC)

1	Name and address of the Applicant	:	Tvl. Anixter India Private Limited, New No.163, Old No.70/1, Luz Church Road, Mylapore, Chennai- 600 004.
2.	Registration Certificate No.	:	TIN : 33680821162 CST : NIL
3.	Assessment Circle	:	Alwarpet Assessment Circle.
4.	Date of application	:	NIL
5.	Date of receipt of application	:	01.06.2016.
6.	Clarification sought for	:	"Sale of IT products/cables and other apparatus procured from FTWZ unit to another FTWZ unit in Tamil Nadu and outside Tamil Nadu"
7.	Date of Personal Hearing	:	--
8.	Represented by	:	--

ORDER

Tvl. Anixter India Private Limited, New No.163, Old No.70/1, Luz Church Road, Mylapore, Chennai- 600 004 (TIN 33680821162), registered dealer in the files of Alwarpet 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 the Tamil Nadu Value Added Tax Rules, 2007 (TNVAT Rules,2007).

2.1. The applicant-dealer have sought for clarification on the rate of tax for **"Sale of IT products/cables and other apparatus procured from FTWZ unit to another FTWZ unit in Tamil Nadu and outside Tamil Nadu"**.

2.2. The applicant-dealer have stated that they are engaged in business of dealing in communication and security equipment in the nature of wires, cables, video surveillance equipment like CCTV and security cameras. They have set up their trading unit located in Free Trading and Warehousing Zone (FTWZ), developed by Tvl.Indev Logistics Pvt. Limited at Survey No.219/3, 220/7, C/O J.Matdee Free Trading Zone, Mannur and Vallarpuram Village, Sriperumbudur Taluk, Kancheepuram District -602 105. They procure the above said goods from Tvl.Commscope Solutions India Limited (Vendor), another trading Unit located in the FTWZ developed by Tvl.Indev Logistics Pvt. Limited at Survey No.219/3, 220/7, C/O J.Matdee Free Trading Zone, Mannur and Vallarpuram Village, Sriperumbudur Taluk, Kancheepuram District -602 105. They sell the goods to another trading processing unit located in FTWZ or Special Economic (Processing) Zone located within Tamil Nadu as well as outside Tamil Nadu. With the above mentioned facts, the applicant dealer requested for clarification for the applicable rate of tax on the goods mentioned separately in the Annexure that are sold to a buyer located in the same FTWZ or another SEZ located in the State of Tamil Nadu as well as outside Tamil Nadu.

3. The issue has been examined in detail with reference to the provisions of the TNVAT Act, 2006 and TNVAT Rules, 2007 and the related entries in all the 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.

4.1. Special Economic Zone (SEZ) is defined under Section 2(z) of the SEZ Act, 2005 as extracted below:

"Special Economic Zone means a Special Economic zone notified under the proviso to sub-section (3) and sub-section (1) of Section 4 (including Free Trading Warehousing Zone) and includes the existing Special Economic Zone in SEZ's."

4.2. Section 2(n) of the SEZ Act, 2005 defines the Free Trading and Warehousing Zone as given below:

"Free Trading and Warehousing Zone means a Special Economic Zone wherein mainly trading and warehousing and other activities relating to their business are carried on."

4.3. The benefits of exemption or drawbacks extended under the SEZ Act, 2005 to the units located in SEZ (Processing) are also applicable to FTWZ. FTWZ, for the purpose of the SEZ Act, being a trading facility, is to be treated as a deemed Foreign Territory, within Indian Territory, beyond the Customs Frontiers of India.

4.4. As per Section 2-m of the SEZ Act, 2005, export means (i) taking goods or providing services out of India from a Special Economic Zone, by land or air or sea or by any other mode whether physical or otherwise; (ii) supplying goods or providing services, from the Domestic Tariff Area to a Unit or Developer; or (iii) supplying goods or providing services from one unit to another unit or Developer in the same or different SEZ.

4.5. As per Section 2(o) of the SEZ Act, 2005, import means (1) bringing goods or receiving services in a SEZ, by a Unit or Developer from a place outside India, by land or sea or air or by any other mode whether physical or otherwise; or (ii) receiving goods or services by, Unit or Developer of the same SEZ or a different SEZ.

4.6. As per the definitions of Export and Import respectively, under section 2(m) and 2(o) of the SEZ Act, 2005, the sale or purchase of goods from one unit located in SEZ/FTWZ to another unit located in SEZ/FTWZ in the same Zone or in different Zone is to be construed as Export/Import respectively.

5.1. As per Section 5(1) and (2) of the Central Sales Tax Act, 1956 (CST Act, 1956), the export of goods into a place outside the country and the import of goods into the country from a place outside the country are respectively exempted from the levy of Central Sales Tax as well as Value Added Tax. The said provisions under the CST Act, 1956 are also applicable to the exports and imports as defined under Section 2(m) and 2(o) respectively under the SEZ Act, 2005. It is, therefore, construed that the sale/purchase transactions defined under Section 2(m) and 2(o) of the SEZ Act, 2005 respectively are to be treated as the

export/import respectively under Section 5(1) and 5(2) of the CST Act, 1956 till the goods involved therein have crossed the customs frontiers of India. A sale or purchase of goods from one trading/warehousing unit located in FTWZ(SEZ) to another trading/warehousing unit located in same/another FTWZ is to be considered as a sale/purchase effected within the deemed foreign territory, that is to say, beyond the customs frontiers of India. Therefore, such Sale/Purchase transactions would not fall under the purview of tax liability under the TNVAT Act 2006 or CST Act, 1956.

5.2. As per Section 27 of the SEZ Act, 2005, any goods or services exported out or imported into or procured from domestic tariff area by a unit located in SEZ or to a Developer of SEZ, subject to such terms, conditions and limitations as may be prescribed, are exempted from payment of tax, duties or fees under any enactments, as per First Schedule to the SEZ Act, 2005. As per Section 50 of the SEZ Act, 2005, State Government may, for the purpose of giving effect to the provisions of the SEZ Act, 2005, exempt from State Taxes, Levies and duties to the Developer of SEZ, FTWZ of the entrepreneur or the trader or warehouse located in the SEZ/FTWZ.

5.3. As per Section 12 of the TN SEZ Act (Special Provisions Act, 2005) (Act No.18/2005), every Developer of SEZ/FTWZ who undertake operations or every entrepreneur located in SEZ/FTWZ who undertake authorised operations, like developing, maintaining and operating the SEZ, processing of goods or warehousing and trading of goods, are eligible for exemption on purchase of goods under the State Sales Tax Laws, namely the TNVAT Act, 2006 and TNVAT Rules 2007. Besides, Section 67 of the Customs Act, 1962 permits the transfer of warehoused goods from one Bonded Warehouse to another Bonded warehouse as per the procedure prescribed by the Customs Authorities. In order to effect bond to bond transactions involving goods or services, trader's warehouse located in a SEZ/FTWZ has to apply to the Appropriate Customs Authority having jurisdiction over the area where the SEZ/FTWZ is located, to operate the warehouse and to transact from thereon in respect of goods or services. The depositor of the warehoused goods, to transfer the bonded goods from one warehouse located in SEZ/FTWZ to another warehouse located in same or different SEZ/FTWZ, has to get permission from the Customs Authorities so authorised, as per the legal formalities, prescribed by the Customs Act, 1962.

5.4. If all the provisions under the SEZ Act, 2005, TN SEZ (Special Provisions) Act, 2005, Section 5(1) and (2) of the CST Act, 1956 and Section 67 of the Customs Act, 1962, the transfer of bonded goods from one warehouse in FTWZ to another bonded warehouse located in the same FTWZ or another FTWZ has to be treated as having taken place beyond the Customs Frontier of India not cleared for home consumption and would therefore not falling under the purview of either the TNVAT Act, 2006 or the CST Act, 1956. Summarily, the transfer of warehoused goods in a bonded warehouse located in FTWZ to another warehouse located in same or another FTWZ, is to be treated as sale or purchase effected in the deemed foreign territory, i.e, beyond the Customs Frontiers of India, not liable to tax under the TNVAT Act, 2006 or under the CST Act, 1956.

5.5. Thus, as per the provisions of the SEZ Act, 2005, TN SEZ (Special Provisions Act, 2005), TNVAT Act, 2006 and CST Act, 1956, the **"Sale of IT products/cables and other apparatus procured from FTWZ unit to another FTWZ unit in Tamil Nadu and outside Tamil Nadu"** is exempt from tax liability.

5.6. The Authority for Clarification and Advance Ruling in the case of Tvl.Redington India Limited, in ACAAR No.27/2015-16 dated 22.06.2015 in Acts Cell-II/16663/2015, has already clarified that "Sale of IT products/cables and other apparatus procured from FTWZ unit to another FTWZ unit in Tamil Nadu and outside Tamil Nadu is eligible for exemption under the TNVAT Act, 2006".

6. In view of the above, it is clarified that **"Sale of IT products/cables and other apparatus procured from FTWZ unit to another FTWZ unit in Tamil Nadu and outside Tamil Nadu is eligible for exemption under the TNVAT Act, 2006"**.

Dated this the Thirteenth day of June 2018.

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

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

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

To

Tvl. Anixter India Private Limited,
New No.163, Old No.70/1,
Luz Church Road, Mylapore,
Chennai- 600 004.

Copy to:

The Assistant Commissioner (ST),
Alwarpet Assessment Circle.

The Joint Commissioner (ST),
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 (ST) including Enforcement, LTU, MOU and
ISIC.

All Deputy Commissioners (ST), 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//


State Tax Officer, 27/06/18