

**GOVERNMENT OF TAMILNADU  
COMMERCIAL TAXES DEPARTMENT**

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

**ACAAR No.24/2015-16**  
**Acts cell-II/15034/2015**

Dated:26.10.2015

- 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. Patil Rail Infrastructure Pvt. Ltd, Railway Yard, Tirumangalam, Madurai Dist - 625706, Tamilnadu.
2.	Registration Certificate No.	:	TIN.No. 33975041812
3.	Assessment Circle	:	Tirumangalam Assessment Circle, Madurai Division
4.	Date of application	:	07.05.2015
5.	Date of receipt of application	:	11.05.2015
6.	Clarification sought for	:	Rate of Tax on " <b>Sales on Prestressed Concrete Sleepers" to Indian Railways"</b>
7.	Date of Personal Hearing	:	Personal hearing not Requested
8.	Represented by	:	---

**ORDER**

Tvl. Patil Rail Infrastructure Pvt. Ltd., Madurai - 625 706 (TIN.No.), the registered dealers in the files of Tirumangalam Assessment Circle, Madurai Division 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.

2.1. The applicant-dealers have sought for clarification on the Rate of Tax on:

**“Sales on Prestressed Concrete Sleepers” to Indian Railways”**

3. The applicant-dealers have stated that, prior to 22.08.2013 they have charged a 5% VAT on the sales of Concrete Sleepers to Railways based on the G.O. No. 77 dated 11.07.2011 regarding applicability of levy of tax on the sales of concrete sleepers. In the meantime, the Hon'ble Commissioner of Commercial Taxes, Chennai clarified vide Lr. No. Acts Cell-II/40907/2012 dated 22.08.2013 that the earlier G.O. (Ms) No. 421 Commercial Taxes and Religious Endowment Dept, dated 21.10.1991 reducing the rate of tax from 8% to 4% in respect of the tax payable by any dealer under the TNGST Act, 1959 on the sale of Concrete Sleepers to the Southern Railways has not been changed. Hence it is clarified that as per the provisions of Section 88(3)(i) of the TNVAT Act, 2006, Sale of Concrete Sleepers by any dealer under the TNVAT Act, 2006 to the Southern Railways is taxable @ 4% only. However, the applicant-dealer also stated that they are demanded to pay a 5% VAT on sale/transit of Concrete Sleepers by the Commercial Taxes authorities in Tamilnadu. Hence, under such circumstances the applicant-company had requested the Authority for Clarification and Advance Ruling to issue a clarification on Sale of Concrete Sleepers to Railways.

4.1. The issue has been examined in detail with reference to the provisions of TNVAT Act, 2006 and Rules, 2007 and the relative entries in both 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.



4.2. The applicant-dealers have sought for clarification regarding rate of tax on **"Sales on Prestressed Concrete Sleepers" to Indian Railways"**. There are two independent Notifications, while determining the question on clarifying rate of tax on Concrete Sleepers. One, in Notification No. II(1)/CTR/12(R-16)/2011 in G.O.Ms. No. 77, CT&R(B2), dated 11<sup>th</sup> July 2011 which read as extracted: "..... hereby makes a reduction in rate of tax to 5% on the sale to the State and Central Government Departments including Indian Railways and Departments of other State Governments in Tamil Nadu of any goods Specified in the First Schedule which are taxable at a rate higher than 5%, subject to the condition that the dealer obtains and furnishes a certificate as specified". Another in Notification No.II(2)/CTRE/5677/91 in G.O.Ms. No. 421, Commercial Taxes and Religious Endowments Department, dated 21.10.1991, published at page 635 of (Issue No. 42) Part-II – Section 2 of Tamil Nadu Government Gazette, dated 06.11.1991 thereby reduced the rate of tax from 8% to 4% on the sale of "Concrete Sleepers" to Southern Railways.

4.3. The Notn. No. II(1)/CTR/12(R-16)/2011 in G.O.Ms. No. 77, CT&R(B2), dated 11<sup>th</sup> July 2011 is more general wherein the nature of goods specified is general in characteristic as understood by the expression "any goods" employed therein though the end users of such goods are definitely specified. But the earlier Notification No.II(2)/CTRE/5677/91 in G.O.Ms. No. 421, Commercial Taxes and Religious Endowments Department, dated 21.10.1991 is specific both in respect of the commodity dealing only to sale of "Concrete Sleepers" and the buyer viz., "Sothern Railways". According to latin maxim of **"generalia specialibus non derogant"**, general law yields to special law when they operate in the same field on same subject. Hence, the general entries vide Notn. No. II(1)/CTR/12(R-16)/2011 in G.O.Ms. No. 77, CT&R(B2), dated 11<sup>th</sup> July 2011 (discussed supra) being so general yields to Specific Notn. No.II(2)/CTRE/5677/91 in G.O.Ms. No. 421, Commercial Taxes and Religious Endowments Department, dated

21.10.1991. As per the by principle of harmonious construction, when there is an apparent conflict between two independent provisions of law, the special provision must prevail. This rule has application in construction of taxing statutes along with the proposition that the provisions must be given the most beneficial interpretation. While determining the question whether a statute is a general or a special one, focus must be on the principal subject-matter coupled with a particular perspective with reference to the intendment of the Act. With this basic principle in mind, it is construed by the Authority for clarification and Advance ruling that the rate of tax on 'Concrete sleepers' sold by the applicant-dealer within the state to Indian Railways (Southern Railway) are construed as liable to tax at the reduced rate of 4% as per Notn. No.II(2)/CTRE/5677/91 in G.O.Ms. No. 421, Commercial Taxes and Religious Endowments Department, dated 21.10.1991 read with Section 88(3)(i) of the TNVAT Act, 2006.

5. It is therefore clarified that **"Sale of Prestressed Concrete Sleepers" to Indian Railways within the state of Tamil Nadu** is liable to tax at the reduced rate of 4% as per the specific notification vide **Notn. No.II(2)/CTRE/5677/91 in G.O.Ms. No. 421, CT&RE Dept, dated 21.10.1991 read with Section 88(3)(i) of the TNVAT Act, 2006.**

Dated this the Twenty Sixth day of October 2015.

Sd/- R. Vayanaperumal,  
Additional Commissioner (PR)

Sd/- K. Mahalingam,  
Additional Commissioner (RP)

Sd/- K. Rajaraman,  
Principal Secretary/  
Commissioner of Commercial Taxes

To  
Tvl. Patil Rail Infrastructure Pvt. Ltd,  
Railway Yard, Tirumangalam,  
Madurai Dist – 625706,  
Tamilnadu.

Copy to:  
The Assistant Commissioner (CT)  
Tirumangalam Assessment Circle, Madurai Division

The Joint Commissioner (CT),  
Madurai 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//

  
Additional Commissioner (PR)