

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 50/ 2013-14
(Acts cell-II/21165/2013)

Dated 06.03.2014

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|----|---------------------------------|--|
| 1 | Name & Address of the Applicant | : Tvl. Sol Ventures (P) Limited.,
No.11/1, Mahalinga Chetty
Street, Mahalingapuram,
Chennai - 600 034 |
| 2. | Registration Certificate No. | : TIN:33941503802/ CST:1066173 |
| 3. | Name of the Assessment Circle | : Valluvar Kottam |
| 4. | Date of application | : 10.07.2013 |
| 5. | Date of receipt of application | : 11.07.2013 |
| 6. | Clarification sought for | : Rate of tax for "RICH's Cooking
Rich - Hot Kitchen Application" |
| 7. | Date of Personal Hearing | : -- |
| 8. | Represented by | : -- |

Tvl. Sol Ventures (P) @ No.11/1, Mahalinga Chetty Street, Mahalingapuram, Chennai - 600 034, (TIN:33941503802), registered dealers in the files of Valluvar Kottam Assessment Circle, Chennai, dealing in "RICH's Cooking Rich - Hot Kitchen Application" 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 for **"RICH'S Cooking Rich – Hot Kitchen Application"**

3. The applicant-dealers have stated that they are authorized distributors for "RICH'S Cooking Rich – Hot Kitchen Application" manufactured by Tvl. Rich Graviss Products Private Limited, Pune-411026. They are supplying the said product to the Food and Hospitality Sector, i.e., the restaurants, Caterers, hotels etc., in Chennai. The RICH'S Cooking Rich – Hot Kitchen Application is a frozen product at (-) 18 Degree Celsius, with Water, Edible Vegetable fat, Liquid Glucose etc., as ingredients, mainly used as a basic ingredient for making foods items like Dhal Makhani, Butter Chicken, Pasta Sauce etc.,. It is mainly used as substitute or replacement with Dairy cream. The said product is being sold directly to the end users in Food and Hospitality sector and also sold to traders who in turn sold the same to the end users. The applicant-dealers have also enclosed the brochure of the product along with the application. On the above, the applicant-dealers have pleaded to clarify the rate of tax on sale as "industrial input" to the hotels and restaurants and on sale to the traders.

4. The issue has been examined in detail with reference to the provisions of TNVAT Act, 2006 and Rules, 2007 and Section 14 of the CST Act, 1956. The clarification is given accordingly as under

5.1. Section 48-A of TNVAT Act, 2006 provides for clarification on any point concerned with rate of tax for commodities.

5.2. The applicant-dealers have sought for clarification regarding rate of tax for the Product, "RICH'S Cooking Rich – Hot Kitchen Application"

- (i) on sale to the end users in Food and Hospitality Sector, i.e., the Hotels, Restaurants and Caterers, as Industrial Input; and
- (ii) on sale to the traders who in turn sell the same to the end users.

5.3. "RICH'S Cooking Rich – Hot Kitchen Application" is the product of Tvl. Rich Graviss Products Private Limited, Pune, distributed by the dealer-applicant in Chennai. The said product is produced out of edible vegetable fat, liquid glucose, water etc., as its ingredients and mainly supplied for use as substitute or for replacing the dairy cream in food preparations in hotels and restaurants and by the caterers. **The brochure indicates that this product is registered under Trade and**

Merchandise Marks Act, 1958 and is a vegetative food preparation basically from the edible vegetable fat. As per the literature on the brochure, it is being an additive to make the gravies and sauces thicker, creamier and tasty.

5.4. Entry 51 in Part-B of the First Schedule to the TNVAT Act, 2006 reads as reproduced under:

51. *"Foods and Food preparations, and Mixes including instant foods, coconut milk powder, pickles, sweets cheese, confectionary, chocolates, toffees, and savouries like chips, and pop corn sold without a brand name other than those specified in the fourth Schedule."*

As per this Entry 51 in Part-B of First Schedule to the Act, the food preparations without brand name alone are liable to VAT @ 5 %. If the food preparations or additives with brand name would attract the tax liability at the rate of 14.5 %. The word, "branded" name is being defined vide section 2(9) of the TNVAT Act, 2006 as given below:

"branded" means, any goods sold under a name or a trade mark registered or pending registration or pending registration of transfer under the Trade and Merchandise Marks Act, 1958 (Central Act 43 of 1958) or the Trade Marks Act, 1999 (Central Act 47 of 1999)

No Entry with the description, "Foods and food preparations.....sold with brand name" is seen in any part of the First Schedule. The goods not falling under any specific entry in any of the schedules to the TNVAT Act, 2006, would fall automatically under the Entry 69 in Part-C of the First Schedule to the TNVAT Act, 2006. Entry 69 in Part-C of First Schedule to the Act reads,

69. *"Any other goods, not specified in any of the schedules."*

5.5. The Product, "**RICH'S Cooking Rich – Hot Kitchen Application**" marketed in Chennai by the applicant-dealers is found to be a "**branded**" **food preparation or additive** mainly out of the edible vegetable fat and liquid glucose etc, as indicated in the brochure. There is no specific entry in any of the parts in the First Schedule or in any of the other schedules to the TNVAT Act, 2006, for branded foods and food preparations. Therefore the product, "**RICH'S Cooking Rich – Hot Kitchen Application**" distributed by the applicant dealer squarely falls within the description of the Entry 69 in Part-C of the First Schedule to the TNVAT Act, 2006.

6.1 The product, "**RICH'S Cooking Rich – Hot Kitchen Application**" is therefore clarified as liable to VAT at the rate of 14.5 % as an unclassified item under Entry 69 in Part-C of the First Schedule to the TNVAT Act, 2006.

6.2. The same product, **if sold as industrial inputs against Certificate** issued by the buyer-manufacturer would attract VAT at the rate of 5 % under **entry 67 in Part-B of First Schedule to the TNVAT Act, 2006 with Rule 6(3)(b) of the TNVAT Rules, 2007.**

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

K. Mahalingam,
Additional Commissioner (RP)

K. Rajaraman,
Principal Secretary/
Commissioner of Commercial Taxes

To

Tvl. Sol Ventures (P) Limited.,
No.576, Anna Salai,
Teynampet,
Chennai - 600 018. (RPAD)

Copy to:
The Assistant Commissioner (CT)
Valluvar Kottam 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)

