

<b>PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND ADVANCE RULING</b>	
<b>ACAAR No. 053/ 2014-15.</b> <b>(Acts Cell – II/24731/2014)</b>	Dated 16.12.2014
<b>Present:</b>	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. Tupperware India Private Limited, No.35/3, I Floor, Sri Balavinayagar Buildings, ARK Colony, Eldams Road, Chennai – 600 018.
2. Registration Certificate No.	: TIN: 33261502430 / CST:818517
3. Date of application	: 05.08.2014
4. Date of receipt of application	: 05.08.2104
5. Clarification sought for	: Rate of Tax on "Tupperware Plastic Products"
6. Date of Personal Hearing	: 21.10.2014
7. Represented by	: Thiru. B.Jambunathan Chartered Accountant and Authorized Representative

### **ORDER**

Tvl. Tupperware India Private Limited, No.35/3, First Floor, Sri Balavinayagar Buildings, ARK Colony, Eldams Road, Chennai – 600 018, (TIN: 33261502430), the registered dealers in the files of Alwarpet Assessment Circle, the manufacturers of wide range of food grade virgin plastic products, mostly food storage and handling kitchen wares, 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 concerned with the rate of tax on **"Tupperware Plastic Products – Food Grade Virgin Plastic Kitchen Wares."**

3. The applicant-dealers have sought for personal hearing. The Authority for Clarification and Advance Ruling has provided the opportunity of personal hearing on 21.10.2014. The applicant-dealers and its Authorized Representative were informed both in writing and through e-mail to appear before the Authority on 21.10.2014. Thiru.B.Jambunathan, the Chartered Accountant and Authorized Representative of the applicant-dealers has appeared before the Authority and represented the applicant-dealers on 21.10.2014 and placed his arguments for and on behalf of the applicant-dealers.

4. The applicant-dealers have claimed that they are the manufacturers wise range of Food grade Virgin Plastic Products, mainly the plastic food storage and handling kitchen wares, dry food items storage containers, lunch boxes, water containers, freezer containers and microwave cooking wares. The applicant-dealers have claimed that almost all of their plastic kitchen wares as specified in Annexure 2 and 3 are made up of the plastic raw materials, viz., Linear Low Density Polypropylene (air tight and water tight containers), High Density Polypropylene (Food storage and serving wares), and High Crystalline Polypropylene (Microwave cooking wares), and a small quantity of masterbatch for the purpose of colouring, except a few items which are non-plastic used in kitchen for food preparation. The applicant-dealers have claimed that all the plastic goods other than doors, windows, frames, profiles, automobile, industrial and sanitary items are notified vide Notification No. II(1)/CTR/30(a-5)/2007 in G.O. Ms. No.79, Commercial Taxes and Registration (B2) Department dated 23.03.2007 as taxable at the reduced rate of 4 % with effect from 01.01.2007. The Authorized Representative of the applicant-dealers has pointed out the said notification has been superseded by a Notification No. II(1) / CTR / 12(R-20)/2011 in G.O. Ms. No.78, Commercial Taxes and Registration (B2) Department dated 11.07.2011, liable to VAT at the reduced rate of 5 %, in consequent to the increase in VAT Rates from 4 % and 12.5 % to 5 % and 14.5 % respectively with effect from 12.07.2011. It is prayed therefore that the rate of tax applicable for Tupperware Food Grade Virgin Plastic Wares may be clarified.

5.1. 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.

5.2. The applicant-dealers have sought for clarification regarding rate of tax on **"Tupperware Plastic Products – Food Grade Virgin Plastic Kitchen Wares."**

6. Both the First and Fourth Schedules to the TNVAT Act, reveals no entry of the description "Food Grade Virgin Plastic Kitchen wares, that is to say, food storage and serving wares, dry food storage containers, lunch boxes, bowls & boxes, freezer containers and microwave cooking wares" or "Plastic Goods or Products". Hence, the plastic goods or products are liable to be treated as unclassified items taxable at 12.5 % generally as per Entry 69 of Part-C of First Schedule to the TNVAT Act, 2006 from 01.01.2007 to 11.07.2011 and at 14.5 % with effect from 12.07.2011. Whereas, **"all the plastic goods other than doors, windows, frames, profiles, automobile, industrial and sanitary items"** are notified as taxable at the reduced rate of 4 % with effect from 01.01.2007 as per Serial No. 13 among the list of goods so notified vide Notification No. II(1)/CTR/30(a-5)/2007 in G.O. Ms. No.79, Commercial Taxes and Registration (B2) Department dated 23.03.2007. Then the rate of tax has been increased to the reduced rate of 5 % with effect from 12.07.2011, vide superseding Notification No. II(1) / CTR / 12(R-20)/2011 in G.O. Ms. No.78, Commercial Taxes and Registration (B2) Department dated 11.07.2011, in consequent to the increase in VAT Rates from 4 % and 12.5 % to 5 % and 14.5 % respectively with effect from 12.07.2011.

7. Plastic is defined to be any one of a large number of synthetic, usually organic materials, that have a polymeric structure and can be moulded when soft and then set, especially, such a material in a finished state containing plasticizer, stabilizer, filler, pigments, etc. From the literature furnished about the products in Annexure 1 to the Application, the wide range of plastic wares as specified in Annexure 2 and 3 to the application, most of the wares, except a few relating to Food Preparation claimed to be non-plastic by the applicant-dealers themselves, are found to be made of the plastic raw materials, viz., Linear Low Density Poly-propylene (air tight and water tight containers), High Density Poly-propylene (Food storage and serving wares), and High Crystalline Poly-propylene (Microwave cooking wares), and a small quantity of master-batch. The Tupperware Food Grade Virgin Plastic Products, mainly food storage and serving wares, dry food storage containers, lunch boxes, bowls & boxes, freezer containers and microwave cooking wares, except the items relating to the food preparations, which are stated to be non-plastic items by the applicant-dealers themselves, are liable to tax at the reduced rate of 5 % as per Notification No. II(1) / CTR / 12(R-20)/2011 in G.O. Ms. No.78, Commercial Taxes and Registration (B2) Department dated 11.07.2011.

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8. The clarification may therefore be that the **"Tupperware Plastic Products – Food Grade Virgin Plastic Kitchen Wares"** are **taxable at the reduced rate of 5 %** vide Entry in **Sl. No.13** with the description, **"All plastic goods** other than doors windows, frames, profiles, automobile, industrial and sanitary items", in Notification No. II(1)/CTR/12(R-20)/2011 in G.O. Ms. No.78, Commercial Taxes and Registration (B2) Department dated 11.07.2011

Dated this, the 16<sup>th</sup> day of December, 2014.

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

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

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

To  
Tvl. Tupperware India Private Limited,  
No.35/3, I Floor,  
Sri Balavinayagar Buildings,  
ARK Colony, Eldams Road,  
Chennai – 600 018.

Copy to:  
The Assistant Commissioner (CT)  
Alwarpet 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)