

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.56/2013-14
Acts cell-II/23396/2013

Dated: 26.10.2016

- Present:**
1. Dr. C. Chandramouli, I.A.S.,
Additional Chief Secretary / Commissioner of Commercial Taxes.
 2. Thiru. A. Sarvar Allam,
Additional Commissioner (CT), (Public Relations)(FAC)
 3. Thiru. K. Mahalingam,
Additional Commissioner (CT), (Revision Petitions)

1	Name and address of the Applicant	:	Tvl. Matrix Boilers Pvt Ltd, S.F.No.17/11 D, Kumaramangalam Industrial Area, Mathur, Pudukkottai - 622515
2.	Registration Certificate No.	:	TIN.No. 33144104133 CST. 826357
3.	Assessment Circle	:	Pudukkottai -I Assessment Circle
4.	Date of application	:	01-08-2013
5.	Date of receipt of application	:	01-08-2013
6.	Clarification sought for	:	Rate of Tax on " Energy processing machines & Spares, Boiler Components & Accessories "
7.	Date of Personal Hearing	:	---
8.	Represented by	:	---

ORDER

Tvl. Matrix Boilers Pvt Ltd, S.F.No.17/11 D, Kumaramangalam Industrial Area, Mathur, Pudukkottai - 622515 (TIN:33144104133), registered dealers in the file of Pudukkottai -I, 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 Tamil Nadu Value Added Tax Rules, 2007 (TNVAT Rules, 2007).

2. The applicant-dealers have requested the Authority for Clarification and Advance Ruling hereinafter will be referred as Authority to clarify the rate of tax on **"Energy processing machines & Spares, Boiler Components & Accessories"**

3. This committee considered the above application and the documents filed along with the application carefully and examined the issue with reference to the Schedules and provisions of TNVAT Act, 2006 and notifications issued under the Act.

4. The applicants have contended that the above goods would fall under the definition of Capital Goods as defined under Sec. 2(11) of TNVAT Act. Capital Goods falling under Entry 25 of Part-B of First Schedule to TNVAT Act, 2006 are liable at 5% VAT from 12.07.2011. This entry reads as "Capital goods as described in Section 2 (11) of the Act". There is no enumeration of the list of capital goods under this entry or any other entries of the Schedules. Capital Goods are defined under Section 2(11) of TNVAT Act as follows:

Capital goods means-

(a) plant, machinery, equipment, apparatus, tools, appliances or electrical installation for producing, making, extracting or processing of any goods or for extracting or for bringing about any change in any substance for the manufacture of final products;

(b) pollution control, quality control, laboratory and cold storage equipments;

(c) components, spare parts and accessories of the goods specified in (a) and (b) above;

(d) moulds, dies, jigs and fixtures;

(e) refractors and refractory materials;

(f) storage tanks; and

(g) tubes, pipes and fittings thereof;

used in the State for the purpose of manufacture, processing, packing or storing of goods in the course of business excluding civil structures and such goods as may be notified by the Government.

From the above definition it is evident that to decide whether a particular commodity falls under definition of capital goods, its nature as well as usage by the buyer of the goods has to be considered. Therefore, to decide whether a particular commodity falls under the definition of capital goods requires detailed verification of the facts relating to the nature and usage of such goods by the buyer of the goods. These facts can be decided only at the time of sale of the goods. In such circumstances, categorical clarification cannot be issued on whether particular goods would fall under the definition of "capital goods".

5. Boilers and their components would fall under Entry 39 of Part-C of I Schedule to TNVAT Act, liable at 14.5%. Energy processing machines are not specifically enumerated in any of the Entries of the Schedules and therefore, would be liable under the residuary Entry 69 of Part-C of First Schedule to the TNVAT Act, 2006.

6. In view of the above discussion, it is clarified that if "**Energy processing machines**" sold by the applicant-dealers satisfy the definition of "capital goods" under Section 2(11) of TNVAT Act, the goods are liable to tax at 5% under Entry 25 of Part-B of First Schedule to the TNVAT Act, 2006. Otherwise, the goods are liable to tax at 14.5% as residuary items falling under Entry 69 of Part-C of First Schedule to the TNVAT Act, 2006.

(ii) However, "**Boiler Components & Accessories**" are liable to tax at 14.5% under Entry 39 of Part-C of First Schedule to the TNVAT Act, 2006.

Dated this the Twenty- Sixth day of October 2016.

Sd/- A. Sarvar Allam,
Additional Commissioner (PR)(FAC)

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

Sd/- Dr.C. Chandramouli, I.A.S
Additional Chief Secretary/
Commissioner of Commercial Taxes

To
Tvl. Matrix Boilers Pvt Ltd,
S.F.No.17/11 D, Kumaramangalam Industrial Area,
Mathur, Pudukkottai - 622 515

Copy to:
The Assistant Commissioner (CT)
Pudukkottai -I Assessment Circle,

The Joint Commissioner (CT),
Trichy 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//

U.S. Narayanan
Commercial Tax Officer