

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 57/ 2013-14
(Acts cell-II/24169/2013)

Dated 14.03.2014

1. Name & Address of the Applicant : Tvl. Ribo Business Consortium Pvt. Ltd.,
Juman Centre, Promenade Road,
Contonement, Trichy - 620 001
2. Registration Certificate No. : TIN:33213521658/ CST:207077
3. Name of the Assessment Circle : Palakkarai - I, Trichy
4. Date of application : 06.08.2013
5. Date of receipt of application : 07.08.2013
6. Clarification sought for : Rate of tax for "De-oiled Copra Cake"
7. Date of Personal Hearing : 14.02.2014
8. Represented by : Thiru. K.Ramu,
VAT Practitioner &
Authorized Representative

ORDER:

Tvl. Ribo Business Consortium Pvt. Ltd., 'Juman Centre, Promenade Road, Contonement, Trichy - 620 001 (TIN:33213521658), registered dealers in the files of Palakkarai - I Assessment Circle, Trichy, dealing in De-oiled Copra Cake 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 "**De-oiled Copra Cake**"

3. The applicant-dealers have sought for personal hearing. The Authority for Clarification and Advance Ruling have convened a meeting for hearing on 14.02.2014. and the applicant-dealers were informed in writing to appear before the Authority on 14.02.2014. Thiru. K.Ramu, the VAT Practitioner and Authorized Representative of the applicant-dealers has appeared before the Authority on 14.02.2014 for hearing and represented for and on behalf of the applicant-dealers. The applicant-dealers have stated that they are importing de-oiled copra cake from Srilanka and selling the same to the leading cattle feed manufacturers inside and outside the State, viz., M/s. Kerala State Co-operative Milk Marketing Federation Limited, M/s. Kamadhenu Feeds (P) Limited, and M/s. Kalpataru Feeds. De-oiled cake is found placed under two Entries in Part-B of the Fourth Schedule to the TNVAT Act, 2006, one is Entry 5 relating to animal feeds and another one is Entry 66 relating to exemption for the dealers in oilcakes on a condition that the annual sale turnover should not exceed Rs.300 crores. The Authorised representative of the applicant dealers stated that the de-oiled cake sold as such or as ingredient for processing or manufacture of cattle feed is unconditionally exempt wide entry 5 in Part-B of Four Schedule to the TNVAT Act, 2006. No turnover ceiling is prescribed under this Entry to enable the exemption. Entry 5 is intended to provide exemption for all kinds of feed for cattle as such or concentrates, supplements and additives. Expressly de-oiled cake is mentioned among different animal feeds under this entry. The exemption provided under entry 5 is wide and purposefully construed not to defeat the intention of the legislature. Since the exemption herein is unconditional it will apply to both intrastate and interstate sale of de-oiled cake in view of Section 8 of the CST Act, 1956, in adopting the rate applicable for local sales. The de-oiled cake under Entry 66 in Part-B of First Schedule can at best be applied to the oil cakes and de-oiled cakes sold for the purposes other than for being cattle feed. Moreover, the list of value added commodities published in the Departmental website reveals that the de-oiled cake is mentioned as classifiable under Entry 5 in Part-B of Fourth Schedule to the TNVAT Act. It is therefore requested that this issue may appropriately be clarified, following the observation by the Supreme Court and many High Courts that "when a particular commodity is classified under two different entries, the one that is beneficial to the assessee has to be adopted.

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 "**De-oiled Copra Cake**".

5.3. The applicant-dealers are importing de-oiled copra cake from Srilanka and selling the same to the leading cattle feed manufacturers inside and outside the State, viz., M/s. Kerala State Co-operative Milk Marketing Federation Limited, M/s. Kamadhenu Feeds (P) Limited, and M/s. Kalpataru Feeds. De-oiled cake is found placed under two Entries in Part-B of the Fourth Schedule to the TNVAT Act, 2006, one is Entry 5 relating to animal feeds and another one is Entry 66 relating to exemption for the dealers in oilcakes on a condition that the annual sale turnover should not exceed Rs.500 crores.

5.4. The Entry 5 in Part-B of First Schedule to the TNVAT Act, 2006 reads as given below:

*"Aquatic feed, poultry feed, cattle feed and animal feed including supplement concentrate and additives, wheat bran, **de-oiled cake**, grass, hay and straw".*

Whereas the Entry 66 in Part-B of Fourth Schedule reads as given below:

*"Sale of oil cakes **including de-oiled cakes** by any dealer whose total turnover on the sales of these goods does not exceed rupees five hundred crores per year."*

5.5. The de-oiled cake if sold as such or as ingredient for processing or manufacture of cattle feed is unconditionally exempt under Entry 5 in Part-B of Fourth Schedule to the TNVAT Act, 2006. No turnover ceiling is prescribed under this Entry to enable the exemption. Entry 5 is intended to provide exemption for all kinds of feed for cattle as such or concentrates, supplements and additives. Expressly de-oiled cake is mentioned among different animal feeds under this entry. The exemption provided under entry 5 is wide and purposefully construed not to defeat the intention of the legislature. Since the exemption herein is unconditional it will apply to intrastate sales as well as interstate sale of de-oiled cake in view of Section 8 of the CST Act, 1956, in adopting the rate applicable for local sales. The de-oiled cake under Entry 66 in Part-B of First Schedule can at best be applied to the oil cakes and de-oiled cakes sold for the purposes other than for being cattle feed. Moreover, the list of value added commodities published in the Departmental website reveals that the de-oiled cake is mentioned as classifiable under Entry 5 in Part-B of Fourth Schedule to the TNVAT Act.

5.6. The Supreme Court and many High Courts have observed (Tungabhadra Industries and Sri Lakshmi Coconut Industries) that.

"A sales tax statute, being one levying tax on goods, any particular term used to specify an item of goods on which tax is levied, must, not being term of science or art, be presumed to have been used in the ordinary sense and, therefore, it should be understood according to the meaning ascribed to it at common parlance. Therefore, while interpreting any item subjected to tax under the sales tax laws, resort should be had to their popular meaning or the meaning attached to them by those dealing in them, i.e., in the commercial sense and not to the scientific or technical meaning of such term.

If two interpretations are reasonably possible, the one in favour of the assessee should be accepted".

5.7. On the forgoing discussions, it is understood that the exemption provided for de-oiled cakes under Entry 5 in Part-B of Fourth Schedule to the Act is more specific and general than the exemption provided under Entry 66 in Part- B of the Fourth Schedule, as de-oiled cakes are coming under inclusive clause so as to determine the limitation in terms of annual sales turnover of oilcakes should not exceed rupees Five hundred crores. Among these two Entries in Fourth Schedule, the Entry 5 prevails over the Entry 66, since the Entry 5 is commodity specific and general whereas the Entry 66 is dealer specific enabling exemption to a particular class of dealers and therefore both the entries are mutually exclusive at different planes. On applying the ratio of the decisions aforesaid, it is necessarily to be clarified that De-oiled cakes are exempt by virtue of Entry 5 in Part-B of Fourth Schedule to the Act, 2006 on intrastate sale as well as on interstate sales as provided under section 8(2) of the CST Act, 1956.

6. The clarification is therefore that the **"De-oiled Copra Cake" is exempt from tax by virtue of Entry 5 in Part-B of Fourth Schedule to the TNVAT Act, 2006, on sale inside the State and on sale in the course of interstate trade or commerce, as per Section 8(2) of the CST Act, 1956.**

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

K. Mahalingam,
Additional Commissioner (RP)

K. Rajaraman,
Principal Secretary/
Commissioner of Commercial Taxes

To
Tvl. Ribo Business Consortium Pvt. Ltd.,
Juman Centre, Promenade Road,
Contonement,
Trichy - 620 001. [RPAD]

Copy to:
The Assistant Commissioner (CT)

Palakarai-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 File3 / Acts Cell-II / Spare - 5.

//Forwarded/By order//


Additional Commissioner (PR) (FAC)