

PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND ADVANCE RULING		
ACAAR No.58/ 2014-15 (Acts Cell – II/25559/2014)		Dated 23.10.2014
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. S.S. Associates, No.6/14, Pillaiyar Koil Street, Pallavaram, Chennai – 600 043.
2.	Registration Certificate No.	: TIN:33410940669 / CST: 599524
3.	Date of application	: 12.08.2014
4.	Date of receipt of application	: 12.08.2014
5.	Clarification sought for	: Rate of Tax on " Compressed Air Drier, Cooling Tower, Industrial Chiller, Vertical Air Filter and Auto Drain Valve"
6.	Date of Personal Hearing	: 14.10.2014
7.	Represented by	: Thiru. K.Ramasubramanian Manager & Authorized Representative

ORDER

Tvl. S.S. Associates, No.6/14, Pillaiyar Koil Street, Pallavaram, Chennai – 600 043, (TIN:33410940669), the registered dealers in Industrial Compressed Air Drier and Cooling/Chilling System Equipments, in the files of Tambaram-II Assessment Circle, Tambaram, have preferred application in Form 'VV' and sought for 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 on **"Industrial Compressed Air Drier and Cooling/Chilling System Equipments"** such as Compressed Air Drier, Cooling Towers, Industrial Chillers, Air Filter, Vertical Air Receiver, Auto Drain Valve, Parts, components and accessories thereof"

3. The applicant-dealers have sought for personal hearing. The Authority for Clarification and Advance Ruling has provided the opportunity of personal hearing on 14.10.2014. The applicant-dealers were informed in writing to appear before the Authority on 14.10.2014. Thiru. K.Ramasubramanian, the Manager and Authorized Representative of the applicant-dealers has represented the applicant-dealers before the Authority on 14.10.2014 and placed his arguments for and on behalf of the applicant-dealers. The applicant-dealer has stated that they are the distributors for the Industrial Compressed Air Drier and Cooling/Chilling System Equipments, such as Compressed Air Drier, Cooling Towers, Industrial Chillers, Air Filter, Vertical Air Receiver, Auto Drain Valve, Parts, components and accessories thereof" manufactured by Tvl. Gem Equipments (P) Limited, Coimbatore. The applicant-dealers have furnished the copies of tax invoices raised on them by their suppliers, Tvl. Gem Equipments (P) Limited, Coimbatore, revealing the collection of tax at 14.5 %. The Authorized Representative has categorically stated that their sales of the said machineries are only to the Industries around Chennai and prayed that the appropriate rate of tax on the said "Air Drier and Cooling/Chilling System Equipments" if such equipments are sold to industries.

4. The issue has been examined in detail with reference to the provisions of TNVAT Act, 2006 and Rules, 2007 and the related Entries in 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. The applicant-dealers have sought for clarification regarding rate of tax on **"Industrial Compressed Air Drier and Cooling/Chilling System Equipments"** such as Compressed Air Drier, Cooling Towers, Industrial Chillers, Air Filter, Vertical Air Receiver, Auto Drain Valve, Parts, components and accessories thereof"

6. There is no specific Entry with the description, **"Industrial Compressed Air Drier and Cooling/Chilling System Equipments"** such as Compressed Air Drier, Cooling Towers, Industrial Chillers, Air

Filter, Vertical Air Receiver, Auto Drain Valve, and Parts, components and accessories thereof", in any of the Parts of First Schedule to the TNVAT Act, 2006, Therefore, the aforesaid equipments would fall under Entry 69 of Part-C of First Schedule as an unclassified item of goods; and attract VAT @ 14.5 % on sales inside the State.

7. However, there is a relative Entry 25 of part-B of First Schedule to the TNVAT Act, 2006, which reads as under:

"Capital goods as described under section 2(11) of the Act."

The definition of the term, "Capital Goods" under section 2(11) of the Act, reads as extracted below:

(11) "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;

7.2. No doubt that any machinery and its spares, components and accessories are eligible to be treated as 'Capital Goods' within the meaning and scope of clauses (a) and (c) of Section 2(11) of the Act and Entry 25 of Part-B of First Schedule to the Act, if such machinery,

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or its spare parts or components or accessories are used inside the State for manufacture or processing or packing or storing of goods in the course of business. In order to be of the Capital Goods, it is not necessary that the machinery, equipment or apparatus or appliance must have to be directly involved in the manufacture or processing of the goods. Whereas such machinery or equipment or appliance may indirectly connected with the process of manufacture or processing. The Industrial Compressed Air Drier and Cooling/Chilling System Equipments, such as Compressed Air Drier, Cooling Towers, Industrial Chillers, Air Filter, Vertical Air Receiver, Auto Drain Valve and Parts, components and accessories thereof" are used in industry to maintain dust free, moisture free, conducive working environment in every line of industry, where such system equipments are installed. Therefore the aforesaid Industrial Compressed Air Drier, Cooling /Chilling System Equipments, the parts, components and accessories thereof are eligible to be treated as Capital Goods liable to tax @ 5 % as falling within the scope and meaning of clauses (a) and (c) of Section 2(11) of the Act, read with Entry 25 of Part-B of First Schedule to the Act, provided such equipments are sold inside the State for use in Industries.

8. The clarification is therefore that the **"Copper Bush" an electronic spare is, -**

(i) "Industrial Equipments" such as Compressed Air Drier, Cooling Towers, Industrial Chillers, Air Filter, Vertical Air Receiver and Auto Drain Valve" for Industrial applications are taxable @ 5 % if sold for use as Capital Goods as defined under Section 2(11) of the TNVAT Act, 2006 read with Entry 25 of Part-B of First Schedule to the TNVAT Act, 2006; and

(ii) otherwise taxable @ 14.5 % as an unclassified item under Entry 69 of Part-C of First Schedule to the TNVAT Act, 2006, on sale inside the State and on sale in the course of interstate trade or commerce not covered by Form 'C' declarations.

Dated this, the 23rd Day of October, 2014.

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

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

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

To

Tvl. S.S. Associates,
No.6/14, Pillaiyar Koil Street,
Pallavaram,
Chennai - 600 043.

Copy to

The Assistant Commissioner (CT)
Tambaram – II Assessment Circle

The Joint Commissioner (CT),
Chennai (South) 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)