

**ACAAR No. 59/ 2014-15.**  
**(Acts Cell - 26152/2014)**

Dated 24.09.2014

**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 Phoenix Agencies, No.158, Anna Salai, Chennai- 600 002.
2.	Registration Certificate No.	:	TIN: 33120620098/CST:031863
3.	Date of application	:	14.08.2014
4.	Date of receipt of application	:	18.08.2014
5.	Clarification sought for	:	Rate of tax on "Power Tools"
6.	Date of Personal Hearing	:	16.09.2014
7.	Represented by	:	Thiru. V.V.Sampathkumar Authorized Representative

**ORDER**

Tvl. Phoenix Agencies, No.158, Anna Salai, Chennai - 600 002, (TIN:33120620098), the registered dealers in Tools, in Anna Salai-II Assessment Circle, Chennai, 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 regarding rate of tax on hand held "**Power Tools**".

3.1. The applicant-dealers have sought for personal hearing. The Authority for Clarification and Advance Ruling have convened a meeting for hearing on 16.09.2014 and the applicant-dealers were informed in writing to appear before the Authority on 16.09.2014. Thiru. V.V.Sampathkumar, Chartered Accountant cum Authorized Representative has represented the applicant-dealer before the Authority on 16.09.2014 and placed the facts relating to the clarification sought for.

3.2. The applicant-dealers have stated in their application that they are dealers for Power Tools manufactured by Tvl Bosch Limited. It is claimed that the hand held Power Tools dealt by them would fall under Entry 138 with the description, "Tools" in Part-B of First Schedule to the TNVAT Act, 2006 and therefore taxable @ 5 %. In this regard, the applicant-dealers have furnished Brochure for the hand held Power Tools of Tvl. Bosch Limited. The learned Authorized Representative has placed written submissions wherein he has furnished the dictionary meaning of the term, "Tools" in literary, legal and technical parlance. Besides, the learned Authorized Representative has pointed out that the term, "tools", employed under section 2(11)(a) of the Act provides room to treat the tools as capital goods, as the tools are some or other how closely associated with the processes of manufacturing.

3.3. The learned Authorized Representative has further placed his reliance on the decision of the Hon'ble Supreme Court in the case of Collector of Customs vs. Swasthik Woolan Pvt. Ltd., (72 STC 201) and certain other decisions reported in 32 STC 309, 51 STC 74, 60 STC 80 (SC) and 47 STC 359, regarding the interpretation of a term or a clause or phrase employed under the Statute if such term or clause or phrase is not defined or explained, in a common or trade parlance, i.e., how it is understood by those who are closely associated with. He has also claimed, referring the decisions of the Hon'ble Supreme Court in the cases of FILTERCO vs. Commissioner of Sales Tax, Madhya Pradesh (1986) 61 STC 318 (SC) followed in 56 VST 472 and Plasmac Manufacturing Company vs. Collector of Central Excise (1992) 84 STC 107 (SC), that the Entry 138 with the description "Tool" should be understood in trade parlance or commercial sense, as it would be of wide import to cover every kind of tools, so to say, manually operated, hand held power operated and machine tools. Accordingly it is prayed that the hand held power tools may be clarified as taxable at 5 % as falling within the scope and meaning of the Entry 138 in Part-B of First Schedule to the Act.

4. The issue has been examined in detail with reference to the provisions of TNVAT Act, 2006 and Rules, 2007, the relevant entries in the respective schedules to TNVAT act, 2006. Section 48-A of TNVAT Act, 2006 provides for clarification on any point concerned with rate of tax for commodities. The applicant-dealers have sought for clarification regarding rate of tax on hand held **Power Tools.**

5.1. Tools are classified among the goods normally taxable @ 5 % vide Entry 138 with the description, "Tools" in Part-B of First Schedule to the Act. Besides, tools are also classified to be

capital goods by having employed the term, "tools" in section 2(11)(a), so as to include the manually operated tools, hand held power tools and machine tools under this category as such tools are some or other how closely associated with the process of manufacture in different kinds of manufacturing industry. As "Tools" are classified to be a separate class of goods under specific Entry 138 of Part-B of First Schedule, the tools shall be dealt for the purpose of taxation as a specific class of goods though they bear the eligibility to be treated as capital goods, under Entry 25 of Part-B of First Schedule read with section 2(11)(a) of the Act.

5.2. The term "tools" means a device, used to perform or to facilitate a manual or mechanical work. It may also denote the machine, such as lathe, used to cut and shape the machinery parts or other objects and the cutting parts of such machine, i.e., called machine tools. It is technically to mean a mechanical implement usually held in hand for working upon something, for example, screw driver, hammer, chisel, spanner etc; or a simple machine i.e., lathe and its cutting, turning, grinding and drilling parts i.e., machine tools. In the case of *Singh Alloys & Steels Ltd. vs. Assistant Collector of Central Excise 1993 (66) ELT 594 (CAL)*, the Calcutta High Court has adopted the meaning for the term 'Tools' as per *Mc-Grew Hill Dictionary of Scientific and Technical Terms (Third Edition)*, which reads, "A device, instrument or machine for the performance of an operation, for example a hammer, saw, lathe, twist drill, grader, planner, screwdriver. To equip a factory or industry for production by designing, making integrating machines, machine tools and special dies, jigs and instruments so as to achieve manufacture and assembly of products on a volume basis at minimum cost." The term, 'Power Tool' means a tool operated by electrical, mechanical, pneumatic or hydraulic power and it may be stationary or portable, where portable means hand held. In Central Excise Tariff heading 8467, reads, 'Tools for working in the hand, pneumatic, hydraulic, or with self contained electric or non-electric motor.'

5.3. It is pertinent here to refer the decisions of the Hon'ble Supreme Court and several High Courts, to understand the meaning of the term, 'tools' under Entry 138 of Part-B of First Schedule. In the cases of *G.Ramaswamy and Others vs. The State of Andhra Pradesh and Others (1973) 32 STC 309 (AP)*, *The State Of Orissa vs. Bhagawandas Ashok Kumar (1982) 51 STC 74 (Orissa)*, *Indo International Industries v. Commissioner of Sales Tax [1981] 47 STC 359* and *P.A.Thillai Chidambara Nadar v. Additional Appellate Assistant Commissioner [1985] 60 STC 80 (SC)*, the respective Courts have observed that, in order to interpret the classification of goods one has to construe the same in the sense in which the persons who deal in such goods

understand it normally. So in construing entries of goods in Excise, Customs of Sales Tax Acts resort should normally be had not to the scientific or technical meaning but to their popular meaning viz. the meaning attached to the expressions by those dealing in them. The popular meaning in the context of a Sales Tax Act is that meaning which is popular in commercial circles for the Act essentially, in its working, is concerned with dealers who are commercial men. Maxwell in his well known work, "Interpretation of Statutes", states, "When dealing with popular business transactions, words are presumed to be used with particular meaning in which they are used to understood in the particular business in question.

5.4. The Supreme Court in the cases of *Collector of Customs vs. Swasthik Woolan Pvt. Ltd.*, (1989) 72 STC 201 (SC), *FILTERCO vs. Commissioner of Sales Tax, Madhya Pradesh* (1986) 61 STC 318 (SC) and *Plasmac Manufacturing Company vs. Collector of Central Excise* (1992) 84 STC 107 (SC) "has consistently taken the view that, in determining the meaning or connotation of words and expressions describing an article in a tariff Schedule, one principle which is fairly well settled is that those words and expressions should be construed in the sense in which they are understood in the trade by the dealer and the consumer. The reason is that it is they who are concerned with it, and, it is the sense in which they understand it which constitutes the definitive index of legislative intention."

5.5. If the term, "Tools" employed under Entry 138 of Part-B of First Schedule to the Act is interpreted in the above scribed legal backdrop, it would be understood that the term, "Tools" is of wide connotation to include every kind of tools, that is to say, manually operated hand tools, Hand held Power tools, operated by pneumatic, hydraulic and electrical power and the machines like lathe and its cutting, grinding, turning and drilling parts, called machine tools. The power tools manufactured by Tvl. Bosch Limited are also tools as understood by the manufacturers, the dealers who are in the supply chain of the same tools and the actual users either the individuals or the industry.

5.6. It is also inevitable to state that it had been clarified by the Commissioner of Commercial Taxes in Ref. No. VAT Cell. 2196/2007 (VCC No.424) dated 30.04.2007 and Lr. No.VAT Cell. 71098/2007 (VCC No.95) that the power tools and cutting tools are tools taxable at 4 % (as in force then) under Entry 138 of Part-B of First Schedule to the TNVAT Act, 2006.

6. It may therefore be clarified, that the "Power tools" are taxable @ 5 % under Entry 138 of Part-B of First Schedule to the TNVAT Act, 2006.

Dated this, the 24<sup>th</sup> day of September 2014.

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

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

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

To

Tvl Phoenix Agencies,  
No.158, Anna Salai,  
Chennai- 600 002.

Copy to:

The Assistant Commissioner (CT)  
Anna Salai-II 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//

*PR*  
28/9/14  
Additional Commissioner (PR)