

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.60/2013-14
Acts cell-II/26461/2013

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. V.M.R. Engineering works, 162, G.A Road, Old Washermenpet, Chennai - 600 021
2.	Registration Certificate No.	:	TIN.No.33661280565 CST. 89007
3.	Assessment Circle	:	Washermenpet Assessment Circle
4.	Date of application	:	29-08-2013
5.	Date of receipt of application	:	29-08-2013
6.	Clarification sought for	:	Rate of Tax on " Rice & Dhall mill machineries "
7.	Date of Personal Hearing	:	---
8.	Represented by	:	---

ORDER

Tvl. V.M.R. Engineering works, 162, G.A Road, Old Washermenpet, Chennai - 600 021 (TIN:33661280565), registered dealers in the file of Washermenpet 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 **"Rice & Dhall mill machineries"**

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. In view of the above discussion, it is clarified that if "**Rice & Dhall mill machineries**" 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.

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. V.M.R. Engineering works,
162, G.A Road,
Old Washermenpet,
Chennai – 600 021

Copy to:
The Assistant Commissioner (CT)
Washermenpet Assessment Circle,

The Joint Commissioner (CT),
Chennai(North) 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//

K.S. Narayanan
Commercial Tax Officer