

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.61 & 69/2016-17
(Acts Cell-II/1919 & 8640/2017)

Dated:02.06.2017

- 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. Gnanasekaran,
Additional Commissioner (CT), (Revision Petitions)(FAC)



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|----|-----------------------------------|---|---|
| 1 | Name and address of the Applicant | : Tvl. Varalakshmi Starch Industries (P) Ltd, "Varalakshmi Tower" II Floor, No.127/1, Gandhi Road, Salem - 636007 | Tvl. Santhosh Limited, Factory:- 135/1, Santhosh Nagar, Post, Mangalapuram - 636202, Rasipuram, Tamilnadu |
| 2. | Registration Certificate No. | : TIN.No. 33442661578, CST No. 709742 | TIN.No. 33752620619, CST No. 421256 |
| 3. | Assessment Circle | : Salem Tower (North) Assessment Circle | Leigh Bazaar Assessment Circle |
| 4. | Date of application | : -- | -- |
| 5. | Date of receipt of application | : 20-01-2017 | 22-03-2017 |
| 6. | Clarification sought for | Rate of tax on " Maize Gluten " | |
| 7. | Date of Personal Hearing | : -- | -- |
| 8. | Represented by | : -- | -- |

ORDER

Tvl. Varalakshmi Starch Industries (P) Ltd, "Varalakshmi Tower"
II Floor, No.127/1, Gandhi Road, Salem - 636007 [**ACAAR
No.61/2016/17**] (TIN.No. 33442661578) registered dealers in the
files of Salem Tower (North) Assessment Circle, Tvl. Santhosh Limited,

Factory:- 135/1, Santhosh Nagar, Post, Mangalapuram – 636202, Rasipuram, Tamilnadu [ACAAR No.69/2016-17] (Tin No.33752620619) registered dealers in the files of Leigh Bazaar 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) on the rate of tax applicable on "**Maize Gluten**". . Since issues involved in both the applications are same, these applications were considered together and a common order is passed.

2.1. The applicant-dealers have stated that they are manufacturing Maize Starch from raw Maize. In the Course of manufacturing of Maize Starch, Gluten is obtained as a residuary product. Gluten is used by the Farmers as poultry/cattle/animal feed supplement. It has high protein content and therefore used as a protein supplement for poultry. Hence the applicant-dealers have contended that Maize Gluten being used as poultry/cattle/animal feed supplement, they are to be classifiable under the Entry 5 of Part-B of Fourth Schedule to the TNVAT Act, 2006 as an exempted item. The applicant-dealers have cited the decision held by the Hon'ble Central Excise and Service Tax Apellate Tribunal (CESTAT), New Delhi that the above product is classifiable under Chapter 23 of Central Excise Tariff as a residue of Starch manufacture which is exempt from Central Excise Duty.

2.2. The applicant-dealers have further stated that "Maize Gluten" a residuary product obtained from manufacturing Maize Starch is used by the poultry farmers as one of the protein supplements, additives for poultry animal feeds. A polyvalent protein sources when used as feed for broilers and it helps accentuate the yellow colouration of yolks as well as subcutaneous fat. The high xanthophylls content of Maize Gluten makes it particularly valuable as an efficient pigmenting ingredient in poultry feeds. Also, under Commercial circle the trade understanding between dealer manufacture and traders and customers has understood the Maize Gluten as residuary product used as poultry feed supplement only.

2.3. The applicant-dealers have also furnished that while during the course of manufacture of Maize starch the primary product and residuary Items obtained, their percentage ratio, their uses are summarised and shown in the following table:

| Product | Percentage | Uses | Entry under TNVAT Schedules |
|-----------------|---------------------|---------------------------------------|--|
| Primary Product | | | |
| Starch | 65 to 67% | Corn Starch (Maize Product) | Taxable under First Schedule |
| Residuary Items | | | |
| Gluten | 3-4% | Poultry/cattle/animal feed supplement | Exempted vide Entry-5/Part-B/IV Schedule |
| Germ | 5% | Germ Oil | Taxable under First Schedule |
| Fiber | 10-11% | Used by Farmers as cattle feed | Exempted vide Entry-5/Part-B/IV Schedule |
| Rest | Water (Moisture) | - | - |

2.4. The applicant-dealers have also enclosed the Extracts from "Animal Nutrition Handbook 3rd Revision" written and published by Lee I.Chiba in 2014 and the following terms are extracted and shown below:

- [Section 19: Glossary page 639] explains the word "*Gluten – The tough, viscid, nitrogenous substance remaining when the flour of wheat or other grain is washed to remove the starch*"
- At page 598 explains the term "*Corn gluten meal – Dried residue remaining after removal of large part of starch, germ and bran and contains 40 to 60% CP*"
- At page 592 the "*Corn gluten meal*" is explained as a protein supplement

2.5. The applicant-dealers also cited the following tax cases

- (i) Additional Commissioner of Sales Tax, Bombay (Vs) AFCONS Industrial Corporation [1990], 78 STC 385 (Bom)
- (ii) Bharat Forge Express Industries (Vs) Collector of Central Excise, Baroda [1990] (45) E.L.T.525 (SC)
- (iii) Annapurna Carbon Industries (Vs) State of Andhrapradesh AIR 1976 SC 1418

and requested the Authority for Clarification and Advance ruling to clarify that gluten from maize is a poultry feed supplement falls under Entry 5 of Part-B of Fourth Schedule to the TNVAT and is exempted from VAT.

3.1. 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, Rules made thereunder and notifications issued under the Act.

3.2. The applicant dealer had sought for clarification regarding rate of tax on **"Maize Gluten" which are used as poultry feed supplement.** Upon verifying the literature "Animal Nutrition Handbook 3rd Revision" written and published by Lee I.Chiba in 2014 filed along with the application it is evident that Maize gluten (Corn gluten meal) is used as protein supplement for poultry and hence are eligible to be classified under Entry-5 of Part-B of Fourth Schedule to the TNVAT Act, 2006 with the description "Aquatic feed, poultry feed, cattle feed and animal feed including supplement concentrates and additives, wheat bran, de-oiled cake, grass, hay and straw"

4. In view of the above discussion, it is clarified that **"Maize gluten" dealt by the applicant-dealers is classifiable as "poultry feed supplement" and is eligible for exemption from VAT liability under Entry 5 of Part-B of Fourth Schedule to TNVAT Act, 2006.**

Dated this the Second day of June 2017.

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

Sd/- K. Gnanasekaran,
Additional Commissioner (RP) (FAC)

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

To

1. Tvl. Varalakshmi Starch Industries (P) Ltd,
"Varalakshmi Tower"
II Floor, No.127/1, Gandhi Road,
Salem – 636007
2. Tvl. Santhosh Limited,
Factory:-
135/1, Santhosh Nagar,
Post, Mangalapuram – 636202, Rasipuram,
Tamilnadu

Copy to:

1. The Assistant Commissione,
Salem Tower (North) Assessment Circle
2. The Assistant Commissione,
Leigh Bazaar Assessment Circle

The Joint Commissioner (CT),
Salem 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//


Commercial Tax Officer 5/6/2017