

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.65/2012-13
Acts Cell-II/9435/2013

Dated:25.10.2016

ACAAR No.67/2012-13
Acts Cell-II/9436/2013

- 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)

REVIEW ORDER

- Ref:**
1. Proceedings of the Authority for Clarification and Advance Ruling ACAAR No.65/2012-13 (Acts Cell II/31905/2012) dated 14.02.2013.
 2. Proceedings of the Authority for Clarification and Advance Ruling ACAAR No.67/2012-13 (Acts Cell-II/32081/2012) dated 14.02.2013.
 3. Review Applications from Tvl. Convenio Foods International Private Limited, No.123/1A1, Medavakkam Road, Mampakkam, Chennai – 600 127 dated 28.03.2013

Tvl. Convenio Foods International Private Limited,
No.123/1A1, Medavakkam Road, Mampakkam, Chennai – 600 127
(TIN:33841602991), registered dealers in Indian breads like Chapathi,
Paratha etc., in the files of Chengalpet, Assessment Circle have preferred
review application on the orders passed by this authority under Section

48-A (4) of the Tamil Nadu Value Added Tax Act, 2006 (TNVAT Act, 2006) in the proceedings 1st and 2nd cited. Since issues involved in both the review applications are same, these applications were considered together and a common order is passed.

2. On application by the same applicant dealers, it was clarified in the proceedings 1st and 2nd cited as follows:

“Ready to eat instant food items like Chapathi, Paratha etc., sold with brand name “Convenio” are taxable at 14.5% Entry-69 of Part-C of First Schedule to the TNVAT Act, 2006”

- [ACAAR No.65/2012-13 (Acts Cell II/31905/2012)]

“Vegetarian foods like Chapathi, Paratha, rolls, cutlets etc., sold with brand name “Convenio” are taxable at 14.5% under Entry 69 of Part-C of First Schedule to the TNVAT Act, 2006. However, ready to eat instant foods, if sold without brand name, are taxable at 5% under Entry 51 of Part-B of First Schedule”

- [ACAAR No.67/2012-13 (Acts Cell II/32081/2012)]

3.1. The applicant-dealers have requested to review the above clarifications and to classify the goods under any one of the following items liable to tax at 5% or exempt from tax:

(i) Unbranded Food preparations like Chapathi, Paratha, Poori, Rolls, Kieves, Cutlets, etc to be classified under commodity code 2051, being unbranded food and food preparations falling under Entry 51 of Part-B of I Schedule to TNVAT Act liable at 5% VAT. The reason given by the applicant dealers for this classification is that their bulk production and supply to institutional buyers like industrial caterers, marriage caterers, air caterers, theme parks, colleges etc., are done by packing the food

items in ordinary LDPE pouches with only statutory manufacturing details and without brand name.

(ii) Branded semi-cooked/uncooked Chapathi, Paratha, Poori – being flattened or pressed dough, to be classified under Commodity code 840, being 'ready-mix food products' liable at the reduced rate of 5% under Notification issued in G.O Ms. No. 33 CT&R (B2) dated 29.3.2010.

(iii) Chapathi/Paratha are nothing but Indian Breads and therefore to be classified under commodity code 712, falling under Entry 12 of Part-B of IV Schedule to TNVAT Act, eligible for exemption.

4. Section 48-A(4) of the TNVAT Act 2006 provides that the Authority may review, amend, or revoke its clarification or advance ruling at any time for good and sufficient reason after giving opportunity of being heard to the affected parties. The applicant-dealers sought for personal hearing and accordingly they were heard on 04.06.2013. Thiru. S.Murugapan, Advocate and Counsel of the applicant-dealers appeared for the hearing and filed written statements along with documentary evidences.

5. This committee considered the above review applications and the documents filed along with the applications. The contentions made by the learned counsel for the applicants during the personal hearing were also carefully considered and examined the issue with reference to the Schedules and provisions of TNVAT Act, 2006 and notifications issued under the Act.

6.1. Neither in the review applications nor at the time of personal hearing, the applicant dealers have submitted any new facts or proposition of law that were not considered at the time of issue of clarification on their original applications.

6.2. However, the contentions made in the review application [ACAAR No.65/2012-13 (Acts Cell II/31905/2012)] & [ACAAR No.67/2012-13 (Acts Cell II/32081/2012)] are discussed as follows:

(i) There is no dispute in the fact that all their products are registered under brand name '**Convenio**'. Though it is claimed that the bulk packing intended for institutional buyers are without using their brand name, it could be understood that the institutional buyers buy their food products only on the bonafide impression created by their brand name "**Convenio**". When branded food items are served in the restaurant/retail outlets, they are served without packing. Still such products are treated as branded food items. Similarly, when the applicant dealers make bulk supply without packing the products in the package containing their brand name, the products still remain branded products for the buyers. Therefore, such bulk sales cannot be treated as sale of unbranded food products.

(ii) Commodity code 840 refers to branded readymix food products. The semi cooked chappathi, poori and paratha sold by the applicants cannot be treated as readymix food products in the form of 'flour, powder or wet dough', as mentioned in the notification referred above. The products sold by the applicants are ready to eat food items that cannot be treated as ready-mix products.

(iii) In common parlance used in the market, the chappathi and paratha sold by the applicants cannot be treated as bread, enumerated under Entry 12 of Part-B of IV Schedule to TNVAT Act. Bread in the market means baked ready to eat product, normally sold in the bakeries. Indian breads like chappathi and paratha are not sold as bread in the market and therefore, these products would not fall under the above entry relating to bread eligible for exemption.

7. In view of the above discussion, the clarifications already issued by the Authority in ACAAR No.65/2012-13 (Acts Cell II/31905/2012) & ACAAR No.67/2012-13 (Acts Cell II/32081/2012) need no interference and therefore the review applications are rejected.

Dated this the Twenty-Fifth 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. Convenio Foods International Private Limited,
No.123/1A1, Medavakkam Road,
Mampakkam,
Chennai – 600 127

Copy to:
The Assistant Commissioner (CT)
Chengalpet 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 File 3/ Acts Cell-II /Spare – 5.

//Forwarded/By Order//

CGJ. [Signature]
25/10/16
Commercial Tax Officer