

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.69/2015-16.
(Acts Cell-II/27854/2015)

Dated:25.05.2016

- Present:**
1. Thiru. S.K.Prabakar, I.A.S.,
Principal 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. Silverslane, Shop No.208, 2 nd Floor, Khazanchi Plaza, 148 & 149, N.S.C. Bose Road, Sowcarpet, Chennai – 600 079
2.	Registration Certificate No.	:	TIN.No. 33966297628 CST.919883
3.	Assessment Circle	:	NSC Bose Road Assessment Circle
4.	Date of application	:	22-03-2016
5.	Date of receipt of application	:	22-03-2016
6.	Clarification sought for	:	Rate of Tax on " Gold Sheet Artwork of Images like Ganesha, Saraswathi, Sai Baba, Holy Cross of Jesus etc., "
7.	Date of Personal Hearing	:	13-04-2016
8.	Represented by	:	Thiru. Mahendran, Authorized representative

ORDER

Tvl. Silverslane, Sowcarpet, Chennai – 600 079 (TIN.No. 33966297628), registered dealers in the files of NSC Bose Road Assessment Circle, Chennai 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 sought for clarification on the rate of tax applicable on "Gold and Silver articles like Ganesha, Saraswathi, Sai Baba, Holy Cross of Jesus etc., which are in the form of artwork done using 99.90% pure gold engraved and spread across a wide surface area". They have state that these Gold Articles in the form of Artwork are framed under glass in a photo frame which is easier to mount, display and protect the articles.

3. The applicant-dealers sought for a personal hearing. Accordingly, the applicants were personally heard by the the Authority for Clarification and Advance Ruling on 13.04.2016. Thiru. Mahendran, Authorized representative appeared on behalf of the applicants and produced the products dealt by them and stated that these products were gold articles and therefore liable at 1% under Entry 2 of Part-A of I Schedule to TNVAT Act, 2006. At the time of hearing he submitted a copy of the Proceedings of the Commissioner of Commercial taxes (Karnataka), which clarifies that "Gold Sheet Artworks of images like Ganesha, Saraswathi, Sai Baba, Holy Cross of Jesus, Radhakrishna etc., framed under glass in a photo frame" falls within the ambit of description of goods - "Jewellery and Articles of Gold, Silver and other noble metals whether or not studded with precious or semi-precious stones" are liable to tax at rate of 1% in terms of Notification No. FD 57 CSL 2012 (V) dated 31.03.2012 with effect from 01.04.2012 and onwards as per KVAT Act, 2003.

4. This Committee considered the application filed by the applicants along with the supportive documentary evidences and the contentions made by the authorised representative at the time of personal hearing carefully and examined the issue in detail with

reference to the provisions of TNVAT Act, 2006 and Rules 2007 and the notifications issued under the Act.

5. The applicant dealers have sought for clarification on rate of tax for **"Gold Sheet Artwork of Images like Ganesha, Saraswathi, Sai Baba, Holy Cross of Jesus etc.,"**. As per the pamphlets and on perusal of the products produced at the time of personal hearing, it is seen that the product is made of gold plated metal images of god fixed in glass frame. The basic image sheet is made of some non-specified metal/material and it is said to be coated with 99.9% gold. Thin sheet of gold is spread across the metal image of god. The metal image is not made of gold. Therefore, the product dealt by the applicant cannot be termed as "article made of gold", as defined in Entry 2 of Part-A of I Schedule to TNVAT Act, 2006. In other words, gold is part of the product and the product is not an article made of gold.

6. In the market, these products are sold as gift articles only. These products are not treated as gold articles commercially. As per the law evolved by courts on commodity taxation, in determining the meaning or connotation of words and expressions describing an item or commodity in reference to taxing it, the principle is that words or expressions must be construed in the sense in which they are understood in the trade, by the dealer and the consumer. Therefore, we are not in agreement with the view taken by the Commissioner of Commercial Taxes, Karnataka in his proceedings No. CLR.CR.147/2014-15 dated 19/08/2015. Therefore, these products would not fall under any specific entry of the Schedules given under TNVAT Act, 2006. Consequently, the goods would fall under the residuary Entry No.69 of Part-C of First Schedule to TNVAT Act, 2006.

7. It is therefore clarified that **"Gold Sheet Artwork of Images like Ganesha, Saraswathi, Sai Baba, Holy Cross of Jesus etc.,"**

are gift articles, liable to tax at 14.5% as a residuary item under Entry 69 of Part-C of First Schedule to the TNVAT Act, 2006.

Dated this the Twenty Fifth day of May 2016.

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

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

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

To
Tvl. Silverslane,
Shop No.208, 2nd Floor, Khazanchi Plaza,
148 & 149, N.S.C. Bose Road,
Sowcarpet, Chennai – 600 079

Copy to:
The Assistant Commissioner (CT),
NSC Bose Road 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//

(Sd/-) S.K. Prabakar
31st Fifth
Commercial Tax Officer