

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.77/2015-16.
(Acts Cell-II/31300/2015)

Dated 30.11.2015

- Present:**
1. Thiru. S.K.Prabakar, I.A.S.,
Principal Secretary & Commissioner of Commercial Taxes.
 2. Thiru. R.Vayanaperumal,
Additional Commissioner (CT), (Public Relations)
 3. Thiru. Mahalingam,
Additional Commissioner (CT), (Revision Petitions)

1	Name and address of the Applicant	:	Tvl. Rasi Nutri Foods, Ayeepalayam, Athanur, Rasipuram - 636 301.
2.	Registration Certificate No.	:	TIN.No.33083162296 CST: 675969
3.	Assessment Circle	:	Rasipuram Assessment Circle
4.	Date of application	:	06-10-2015
5.	Date of receipt of application	:	07-10-2015
6.	Clarification sought for	:	Rate of Tax on purchase of "Bengal gram" under section 12 of the TNVAT Act, 2006.
7.	Date of Personal Hearing	:	---
8.	Represented by	:	---

ORDER

Tvl.Rasi Nutri Foods, Ayeepalayam, Athanur Rasipuram - 636 301 (TIN.No.33083162296), the registered dealers in the files of Rasipuram

Assessment Circle 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.

2:1. The applicant-dealers have sought for clarification on the following:

Rate of Tax on purchase of "Bengal gram" for use in preparation of weaning food supplied to Integrated Child Development Services Scheme (ICDS), under the Department of Social Welfare and Nutritious Noon Meal Programme, Government of Tamil Nadu.

3.1. The applicant dealers have stated that they are approved and authorised manufacturers and suppliers of weaning food for Integrated Child Development Services Scheme (ICDS), governed by Department of Social Welfare and Nutritious Noon Meal Programme, Government of Tamil Nadu. They are purchasing Bengal gram from registered dealers inside the State along with other raw materials, such as, Wheat, Jaggery, Vitamins etc., for using in the manufacture of "Weaning food" for the children in the age group from six months to two years, supplied to the Department of Social Welfare and Nutritious Noon Meal Programme, Government of Tamil Nadu for supply as supplementary/ complementary food under Integrated Child Development Services Scheme (ICDS).

3.2. In this regard, the applicant dealers have solicited attention of the Authority for Clarification and Advance Ruling to the Entry in Sl. No. 68 of Part-B of Fourth Schedule to the Act, 2006, which reads as extracted below:

68. Sale of the following pulses and grams including broken, splits, flour, husk and dust thereof and parched and fried grams made from them by any dealer whose turnover in respect of the goods in each item does not exceed rupees five hundred crores in a year

- | | |
|-------------------------|---------------------|
| (1) gram or gulab gram. | (7) Lekh or khesari |
| (2) Tur or arhur | (8) Mochai |
| (3) Moong or green gram | (9) Karamani |
| (4) Masur or lentil | (10) Thatta Payaru |
| (5) Urad or black gram | (11) Kollu |
| (6) Moth | (12) Avarai |

3.3. The applicant-dealers have also pointed out the provision under Section 12(1)(a) of the TNVAT Act, 2006 towards the purchase tax liability on the goods purchased inside the State either from registered dealers or from unregistered sources without sufferance of tax at the point of sale and used in the manufacture of other goods for sale. Besides, they have also brought to the notice of the Authority, the Notification No.II(1)/CTR/15/ 2009 issued in G.O. Ms. No.67, Commercial Taxes & Registration (B2) Department dated 21.05.2009, wherein the purchase of Peas and Peas dhall specified in Item 67 and Pulses and grams specified in Item 68 of Part-B of Fourth Schedule to the Act is exempted from Purchase tax payable under section 12 of the Act, with effect from 01.01.2007 if such purchases are for production of the goods like flour.

3.4. The applicant-dealers have stated that Bengal gram is being purchased from registered dealers inside the State without sufferance of tax, since the sale turnover of the selling dealers in respect of Bengal gram is not exceeding the turnover threshold of Rupees Five Hundred Crore in any of the year. The Bengal gram so purchased is being used for production of weaning food for children in the age group of six months to two years, supplied for free distribution to the children of the said age group under Integrated Child Development Program.

3.5. Under the narrated facts and circumstances, the applicant dealers have pleaded that they may be clarified with reference to their liability to purchase tax payable under section 12 of the Act, 2006, on their purchase of "Bengal gram" for use in production of Weaning Food" for supply to Integrated Child Development Program.

4.1. The issue has been examined in detail with reference to the provisions, the schedules and the Notifications issued in this regard under Section 30 of the TNVAT Act, 2006.

4.2. Section 48-A of the TNVAT Act, 2006 provides for the Authority for Clarification and Advance Ruling to clarify any point regarding rate of tax for commodities. The clarification sought by the applicant-dealers is concerned with the **"liability and rate of tax under section 12 of the TNVAT Act, 2006, on purchase of Bengal gram**

from registered dealer whose sale turnover in respect of Bengal gram has not exceeded the threshold limit of rupees five hundred crore, for use in manufacture of "Weaning Food" for supply to Integrated Child Development Program.

5.1. Bengal gram, (gram or gulab gram) is one among the pulses and grams classified to be the declared goods of importance in the course of interstate trade or commerce under section 14(vi-a) of CST Act, 1956. Bengal gram is therefore primarily subjected to VAT at 4 % in the period from 01.01.2007 to 11.07.2011 and 5 % in the period with effect from 12.07.2011 to till date vide Entry in Sl. No. 41 of the description, "Declared goods as specified in section 14 of the Central Sales Tax Act, 1956, other than those specified elsewhere in any of the Schedules", in Part-B of First Schedule to the TNVAT Act, 2006. Nevertheless this fact, the sale of pulses and grams (declared goods) specified under Entry in Sl. No. 41 of Part-B of First Schedule read with section 14(vi-a) of CST Act, 1956 and other pulses and grams (Non-declared goods) specified under Entry in Sl. No. 110 with the description, "Pulses and grams other than those specified elsewhere in the Schedule, is exempted from tax by virtue of Entry in Sl. No. 68 of Part-B of Fourth Schedule to the Act, 2006 subject to the condition that the sale turnover of each pulse or gram should not exceed the threshold of Rupees Five Hundred Crore for a year.

5.2. Section 12 (1) of the TNVAT Act, 2006 reads as extracted below:

12. Levy of purchase tax. -- (1) Subject to the provisions of sub-section (1) of section 3, every dealer, who in the course of his business purchases from a registered dealer or from any other person, any goods the sale or purchase of which is liable to tax under this Act, in circumstances in which no tax is payable by that registered dealer on the sale price of such goods under this Act, and either -

- (a) consumes or uses such goods in or for the manufacture of other goods for sale or otherwise; or*
- (b) disposes of such goods in any manner other than by way of sale in the State; or*
- (c) despatches or carries them to a place outside the State except as a direct result of sale or purchase in the*

course of inter-State trade or commerce or in the course of export out of the territory of India; or
(d) *installs and uses such goods in the factory for the manufacture of any goods,*
shall pay tax on the turnover relating to the purchase aforesaid at the rate specified in the Schedules to this Act.

As per the scheme of the purchase tax imposed under section 12(1) of the Act, any goods primarily taxable as per section 3(2) of the Act, but not having suffered tax on purchase by a registered dealer inside the State either from a registered dealer or unregistered source and used for the purposes specified in clauses (a) to (d) of section 12(1) certainly attract purchase tax in the hands of the purchaser at the rate specified in respect of the such goods under First Schedule read with section 3(2) of the TNVAT Act, 2006.

5.3. The commodity in question in the case of applicant-dealers is Bengal gram, which is primarily taxable at the rate of 4 % and 5 % respectively in the periods prior to and from 12.07.2011, as being a declared commodity by virtue of Entry in Sl. No. 41 of Part-B of First Schedule to the Act, read with section 14(vi-a) (i) of CST Act, 1956. The applicant-dealers have admitted that they have purchased Bengal gram from registered dealers inside the State whose sale turnover in respect of Bengal gram has not exceeded the threshold of Rupees Five Hundred Crore in any of the assessment year. Thus the Bengal gram purchased by the applicant dealers has not suffered tax at the earlier point of sale. The Bengal gram so purchased without sufferance of VAT has been used, along with the other inputs such as wheat, jiggery and vitamins etc., for production of "weaning food", a different commodity for supply to the Integrated Child Development Program. Thus, Bengal gram in the hands of the applicant-dealers falls squarely within the circumstance described under section 12(1) as well as complies with the condition laid down under clause (a) of Section 12(1) of the Act, 2006. Bengal gram purchased by the applicant-dealers from registered dealers without sufferance of tax would therefore attract purchase tax under Section 12(1)(a) of the TNVAT Act, 2006 at the rate of 4% and 5 % respectively in the period prior to and from 12.07.2011, by virtue of its inclusion under declared goods as per section 14(vi-a) (i) of CST Act, 1956 and

classification under Entry in Sl. No. 41 of Part-B of First Schedule to the TNVAT Act, 2006.

5.4. Whereas the purchase of Pulses and grams specified under Entry in Sl. No. 68 of Part-B of Fourth Schedule to the Act is exempted from purchase tax payable under section 12 of the Act with effect from 01.01.2007 for the purpose of use in production of the goods like flour, vide Notification No.II(1)/CTR/15/2009 issued in G.O. Ms. No.67, Commercial Taxes & Registration (B2) Department dated 21.05.2009. The Bengal gram purchased without sufferance of tax on sale point by virtue of Entry in Sl. No. 68 of Part-B of Fourth Schedule to the Act attract no purchase tax under section 12(1)(b) if used for production of gram flour; otherwise attract tax if used for production of different commodities other than gram flour. In the case of applicant-dealers the Bengal gram purchased without sufferance of tax is being used in the production of weaning food, a different commodity. The purchase of Bengal gram by the applicant dealer is thus complying with the condition stipulated under clause (a) of section 12(1) of the Act. On this reason, the purchase of Bengal gram by the applicant-dealers does not fall within the scope of the Notification No.II(1)/CTR/15/2009 in G.O. Ms. No. 67, Commercial Taxes and Registration (B2) Department dated 21.05.2009. The exemption of Purchase tax provided by the said notification dated 21.05.2008 on purchase of Bengal gram for use in production of gram flour is not therefore applicable to the purchase of Bengal gram for use in production of weaning food by the applicant-dealers. Accordingly, the purchase of Bengal gram by the applicant-dealers from registered dealers inside the State without sufferance of tax would attract purchase tax under Section 12(1)(a) of the TNVAT Act, 2006 at the rate of 4% and 5 % respectively in the period prior to and from 12.07.2011, by virtue of its inclusion under declared goods as per section 14(vi-a) (i) of CST Act, 1956 and classification under Entry in Sl. No. 41 of Part-B of First Schedule to the TNVAT Act, 2006.

6. It is therefore clarified that **"Bengal gram purchased by the applicant-dealers from registered dealers inside the State without sufferance of tax and used as an ingredient among other ingredients like wheat, jiggery, vitamins etc., in the production of weaning food is liable to purchase tax under Section 12(1)(a) of the TNVAT Act, 2006 at the rate of 4% and 5 % respectively in**

the period prior to and from 12.07.2011, by virtue of Entry in Sl. No. 41 of Part-B of First Schedule to the TNVAT Act, 2006, read Section 14(vi-a) (i) of CST Act, 1956 and classification under

Dated this the 30th day of November 2015.

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

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

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

To
Tvl. Rasi Nutri Foods,
Ayeepalayam, Athanur,
Rasipuram – 636 301.

Copy to:
The Deputy Commissioner (CT),
Rasipuram 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//


Additional Commissioner (RP) 01/11/16