

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.78/2015-16.
(Acts Cell-II/31301/2015)

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	:	28-09-2015
5.	Date of receipt of application	:	07-10-2015
6.	Clarification sought for	:	Applicability of purchase tax under section 12(1) of the TNVAT Act 2006, on purchase of wheat from Tvl. Food Corporation of India, for use in manufacture of weaning food for supply to Integrated Child Development Services Scheme
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:

Applicability of purchase tax under section 12(1) of the TNVAT Act, 2006, on purchase of wheat from Tvl. Food Corporation of India, for use in manufacture weaning food for supply to Integrated Child Development Services Scheme (ICDS), under the Department of Social Welfare and Nutritious Noon Meal Programme, Government of Tamil Nadu”.

2.2. The applicant dealers are the 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 allotted with certain quantum of wheat by the Principal Secretary/ Commissioner, Integrated Child Development Services Scheme, Chennai, vide ROC NO.3088/NCII(1)/2011-2, dated: 26.04.2011, out of the wheat stock allotted by Government of India, through Tvl. Food Corporation of India (FCI) under WBNP, for use in manufacture of weaning food for supply to the **Integrated Child Development Services Scheme(ICDS)**.

2.3. The applicant dealers have pointed out the following for consideration by the Authority for Clarification and Advance Ruling:

- Wheat was subject to tax at the rate of 4% vide Entry in Sl. No.148 of Part B of First Schedule of TNVAT Act, 2006. But, the rate of tax was reduced to 2% with effect from 01.01.2007 vide Notification No. II(1)/CTR/13(a-3)/2007 in G.O. Ms. No.79, Commercial Taxes & Registration (B2) Department, dated 23.03.2007, published in Tamil Nadu Government Gazette (Extraordinary), dated: 23.03.2007.
- Further wheat is generally exempted from VAT under section 30 of the TNVAT Act, 2006, with effect from 01.04.2012, vide Notification No. II

(1)/CTR/12(a-10)/2012 - in G.O. Ms. No.48, Commercial Taxes & Registration (B2) Department, dated 27.03.2012.

- Whereas, the supply of wheat by Tvl. Food Corporation of India to any dealer for use under "Integrated Child Development Services Scheme (ICDS)" is exempted from tax under Section 17 of the TNGST Act, 1959, vide Notification No. II(1)/CT/33(a)/2002 in G.O. Ms. No.50, Commercial Taxes & Registration (B2) Department, dated 13.05.2002, published in Tamil Nadu Government Gazette (Extraordinary) No.317, Part-II, Section-1, dated 13.05.2002.

In the above backdrop, the applicant-dealers have requested the Authority for clarification as to whether the wheat supplied to them by Tvl. Food Corporation of India, as allocated by Principal Secretary/Special Commissioner, Integrated Child Development Services Scheme, Chennai vide above said reference, for use in manufacture of weaning food for supply to Integrated Child Development Services Scheme, is liable to purchase tax under section 12(1)(a) of the TNVAT Act, 2006 or to be exempted in pursuant of the notification in G.O. Ms. No. 50, dated 13.05.2002.

3.1. The issue has been examined in detail with reference to the provisions to TNVAT Act, 2006 and the Notifications issued under Section 17 of the TNGST Act, as well as the Notifications issued under TNVAT Act, 2006 in this regard.

3.2. At the outset, it is the admitted fact that the applicant-dealers have purchased wheat from Tvl. Food Corporation of India, as allotted by Principal Secretary/ Special Commissioner, Integrated Child Development Services Scheme, Chennai, in ROC NO.3088/NCII(1)/2011-2, dated 26.04.2011. The wheat so purchased is used in manufacture of weaning food for free supply as supplementary food to children under Integrated Child Development Services Scheme, a program of Government of India, implemented by the Department of Social Welfare and Nutritious Noon Meal Program.

3.3. Wheat is normally taxable @ 4 % under Entry 148 of Part B of First Schedule to the TNVAT Act, 2006; but the rate of tax was reduced to 2% with effect from 01.01.2007 vide Notification No.II(1)/CTR/13(a-3)/2007 in G.O. Ms. No.79, Commercial Taxes & Registration (B2) Department dated 23.03.2007. Further, the sale of wheat inside the State of Tamil Nadu by any dealer is fully exempted from payment of tax with effect from 01.04.2012 by Notification No. II (1)/CTR/12(a-10)/2012 - in G.O. Ms. No.48, Commercial Taxes & Registration (B2) Department, dated 27.03.2012.

3.4. As correctly pointed out by the applicant dealer, the supply of wheat by Tvl. Food Corporation of India for use in Integrated Child Development Services Scheme is exempted from payment of tax under section 17 of the TNGST Act, 1959, vide Notification No.II(1)/CTR/33(A)/2002, in G.O. Ms. No. 50, Commercial Taxes & Registration (B2) Department, dated: 13.05.2002. The said Notification issued under erstwhile and repealed TNGST Act, 1959 is very specific to the commodity, "wheat", the supplier, " Tvl. Food Corporation of India" and the Scheme, "Integrated Child Development Services Scheme" in which it is being used. Therefore, the wheat supplied by Tvl. Food Corporation of India to any dealer under "Integrated Child Development Services Scheme" for use in the manufacture of weaning food for the "Integrated Child Development Services Scheme", is fully exempted from Tax. It means that the wheat bears no tax on sale by Tvl. Food Corporation of India, as well as on purchase by the dealers to whom the wheat is sold, that is both seller and buyer are exempted from payment of tax. Thus the sale and purchase of wheat under "Integrated Child Development Services Scheme" are eligible to be exempted from payment of tax by virtue of the said Notification. Section 88 (3)(i) of the TNVAT Act, 2006 provides that the notifications issued under the erstwhile and repealed TNGST Act, 1959, if not inconsistent with the provisions of the TNVAT Act shall continue in force in its full strength and velocity since it has not yet been cancelled or repealed. The said Notification

in G.O. Ms. No. 50 dated 13.05.2002 is therefore construed to be in force still as provided under Section 88 (3)(i) of TNVAT Act, 2006. It is therefore construed that the wheat sold by Tvl. Food Corporation of India to any dealer under Integrated Child Development Services Scheme for use in that scheme is totally exempt from tax in pursuance of the said notification dated 13.05.2002, irrespective of the fact that wheat is liable to tax under Entry in Sl. No.148 of Part - B of First Schedule to TNVAT Act, 2006 @ the reduced rate of 2 % in the period from 01.01.2007 to 31.03.2012 or exempted from tax with effect from 01.04.2012 by Notification in G.O. Ms. No. 48 dated 27.03.2012.

4.1. Section 12 (1) (a) of the TNVAT Act, 2006 provides for levy of purchase tax on purchase of any taxable commodity by a registered dealer either from another registered dealer or an unregistered dealer, if such commodity has suffered no tax on such purchase under such circumstances and is consumed or used in or for the manufacture of other goods for sale or otherwise. Here the purchase of wheat by the applicant-dealers from Tvl. Food Corporation of India under Integrated Child Development Services Scheme for use in manufacture of weaning food for supply to the same Scheme attracted no tax on such transaction by virtue of G.O. Ms. No.50 dated 13.05.2002. This raises the question whether the wheat so purchased and used in the production of weaning food would attract the purchase tax under section 12(1)(a) of the TNVAT Act,2006.

4. As already pointed out, Wheat has been supplied by Tvl. Food Corporation of India to the applicant-dealers under Integrated Child Development Services Scheme as allocated by the Principal Secretary/Special Commissioner, Integrated Child Development Services Scheme, Chennai. The wheat so purchased has been used in the manufacture of weaning food for free supply to children in the age group of six months to one year under Integrated Child Development Services Scheme of Government of

India, implemented by Social Welfare and Nutritious Noon Meal Programme, Government of Tamil Nadu from 01.01.2007 till now. The pertinent factor to be considered here in respect of Notification No.II (1)/CTR/33(A)/2002 in G.O. Ms. No. 50, Commercial Taxes & Registration (B2) Department, dated 13.05.2002, is that this notification is so specific in respect of commodity, "wheat", the supplier, "Tvl. Food Corporation of India" and the Scheme, "Integrated Child Development Services Scheme" under which the wheat has been allocated and supplied. By virtue of this notification, the Wheat supplied by Tvl. Food Corporation of India under Integrated Child Development Services Scheme to any dealer for using in the manufacture of weaning food for Integrated Child Development Services Scheme, is totally exempt from tax in the hands of both seller and buyer, in the period from 01.01.2007 to 31.03.2012. Besides, the wheat is totally exempt from VAT with effect from 01.04.2012 by Notification No. II(1)/CTR/12(a-10)/2012 in G.O. Ms. No.48, Commercial Taxes and Registration (B2) Department dated 27.03.2012. Therefore, the wheat purchased by the applicant-dealers in the period from 01.01.2007 and onwards from Tvl. Food Corporation of India and used in the manufacture of weaning food supplied to Integrated Child Development Services Scheme does not attract purchase tax under Section 12(1)(a) of TNVAT Act, 2006.

6. It is therefore clarified that,

(a) Sale of wheat by Tvl. Food Corporation of India to any dealer as approved to be a manufacturer and supplier of weaning food for Integrated Child Development Services Scheme, on specific allotment by the Commissioner, Integrated Child Development Services Scheme, Chennai, is liable for exemption in the period from 01.01.2007 to 31.03.2012, as per Notification No. II (1)/CTR/33(A)/2002 in G.O. Ms. No. 50, Commercial Taxes and Registration (B2) Department, dated 13.05.2002, as provided under

(b) The purchase of Wheat by the applicant-dealers from Tvl. Food Corporation of India under Integrated Child Development Services Scheme for use in the manufacture of weaning food supplied to same Scheme, **would attract no purchase tax** under Section 12(1)(a) of the TNVAT Act, 2006, in the period from 01.01.2007 to 31.03.2012 by virtue of Notification No. II(1)/CTR/33(A)/2002 in G.O. Ms. No. 50, Commercial Taxes and Registration (B2) Department, dated 13.05.2002 read with section 88(3)(i) of TNVAT Act, 2006 and in the period from 01.04.2012 and onwards by virtue of Notification No. II(1)/CTR/12(a-10)/2012 in G.O. Ms. No.48, Commercial Taxes and Registration (B2) Department dated 27.03.2012.

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, Greaves 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)