

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

ACAAR No. 83/ 2013-14.
Acts cell – II/34502/2013

Dated 02.09.2014

- Present:**
1. Thiru. K.Rajaraman, 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. Ashta Lakshmi Purifiers, S.F. No.1, Sathy Main Road, Saravanampatti (Post), Coimbatore – 641 035
2.	Registration Certificate No.	:	TIN: 33912206438 / CST:1025761
3.	Date of application	:	30.10.2013
4.	Date of receipt of application	:	14.11.2013
5.	Clarification sought for	:	Rate of Tax for “Humidification Plants and Spares for Humidification Plants”
6.	Date of Personal Hearing	:	--
7.	Represented by	:	--

ORDER

Tvl. Ashta Lakshmi Purifiers, S.F. No.1, Sathy Main Road, Saravanampatti (Post), Coimbatore – 641 035 (TIN:33912206438), the registered dealers in the files of Ganapathy Assesment Circle, Coimbatore, trading in Humidification Plants, Reverse Osmosis Plants and Spares thereof, 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. The applicant-dealers have sought for clarification on the following:

Rate of tax for **"Humidification Plants and Spares for Humidification Plants"**

3. The applicant-dealers have stated that they are trading in Humidification Plants and Spares and accessories, which are mainly used in textile industry, especially in spinning mills. The applicant-dealers have added that the Aqua fog Max Humidification System dealt by them facilitates the production and controls the dust pollution in the textile industry. The applicant-dealers have furnished the brochure of their products, revealing the design, structure and functions of their Aqua Fog Max Humidification Plant and its spares, components and accessories. Besides, the applicant-dealers have furnished the copies of the earlier clarifications issued by the Commissioner of Commercial Taxes on Humidification machinery for textile industry, in Letter No.VAT Cell/1843/2007 (VCC 322) dated 11.04.2007 and Letter No. VAT Cell/40798/2007 (VCC 1213) dated 17.09.2007, wherein it was clarified that the Humidification Machinery or Equipment for textile Mills and its spares were taxable at the rate of 4 % vide Entry 25 of Part-B of First Schedule to the TNVAT Act, 2006. The applicant dealers has requested with the above backdrop that the appropriate rate of tax for their Humidification Plant, its spares and components may be clarified.

4.1. The issue has been examined in detail with reference to the provisions of TNVAT Act, 2006 and Rules, 2007 as well as the relative entries under Parts A and B of First and Fourth Schedules to the TNVAT Act, 2006.

4.2. The applicant-dealers have sought for clarification regarding rate of tax on **"(Aqua Fog Max) Humidification Plant and its spares for Humidification System"**

5.1. There is no specific entry of the description, "Humidification Plant and spares, components and accessories thereof" under any of the Parts in First Schedule to the Act. The relative Entry 25 of part-B of First Schedule to the TNVAT Act, 2006 reads as under:

"Capital goods as described in Section 2 (11) of the Act."

The definition of the term, "Capital Goods" under section 2(11) of the Act, reads as extracted below:

(11) "capital goods" means, -

- (a) *plant, machinery, equipment, apparatus, tools, appliances or electrical installation for producing, making, extracting or processing of any goods or for extracting or for bringing about any change in any substance for the manufacture of final products;*
- (b) *pollution control, quality control, laboratory and cold storage equipments;*
- (c) *components, spare parts and accessories of the goods specified in (a) and (b) above;*
- (d) *moulds, dies, jigs and fixtures;*
- (e) *refractors and refractory materials;*
- (f) *storage tanks; and*
- (g) *tubes, pipes and fittings thereof,*

used in the State for the purpose of manufacture, processing, packing or storing of goods in the course of business excluding civil structures and such goods as may be notified by the Government;

5.2. As per the definition of capital goods under section 2(11), confined with its clauses (a) and (b), any machinery, the spares, components and accessories thereof are to be treated as capital goods for the purpose of the TNVAT Act, 2006, if such machinery are put into industrial use directly in the manufacture of goods or closely connected with the manufacture. The products dealt by the applicant-dealers are the industrial and commercial humidification systems uses filtered water supplied through the reverse osmosis Plant attached to the humidification plant. The water pump circulates the water from the tank in the cooler keeping the cooling pad wet and the fan in the humidifier drives the air through the cooling pad. The hot air passed though the cooling pad evaporates some quantity of water that cool down the air bearing the evaporated water particles which on passing through the duct lines maintains the humidity in the air that maintain the temperature at the optimal level for spinning, while used in the spinning industry.

5.3. An another humidification system called Aqua Fog Max Humidification system, contains a special arrangement of atomizing nozzles located along a network of specially designed and fabricated copper tubing fog line. The specially designed fog pump module, provides high water pressure, by which the atomizing nozzles convert into billions of aerosol-sized water particles capable of achieving the highest possible level of evaporating efficiency. This system is controlled by multitude of electronic methods and a central computerized control. The aqua fog max humidification system is so designed for use with technical (RO) water less than 100 ppm with all wetted surfaces made up of stainless steel and brass and safely usable in any environment which requires, Temperature Set level Control, Industrial Humidification Set level Control, Dust control, and such other requirements. This system is highly versatile and adaptable to any industrial environment which requires dust compression, special fog effects, equipment cooling and humidification, especially in textile industry, such as spinning and knitting units. Either of the humidification plants while used in the spinning and knitting industry not only facilitates the continuous production of yarn without being mid-struck but also maintains the count of yarn; and besides it settles down the dust

5.4. The Humidification Plants coupled with the Reverse Osmosis plant attached to that system, its spare parts, components and accessories thereof thus fall under the clauses (a) and (c) of section 2(11) and therefore they bear every quality and character to be treated as capital goods within the scope and meaning of the entry 25 of Part-B of First Schedule to the TNVAT Act, 2006. The earlier clarifications referred by the applicant-dealer as issued by the Commissioner of Commercial Taxes, in respect such capital goods in Letter No.VAT Cell/1843/2007 (VCC 322) dated 11.04.2007 and Letter No. VAT Cell/40798/2007 (VCC 1213) dated 17.09.2007 are also taken into consideration, even though they have been issued without any authority as they enlighten the understanding. Accordingly, it is concluded that the "Humidification Plant, the spares, components and accessories thereof" are liable to VAT at the rate of 5% as capital goods vide Entry 25 of Part-B of First Schedule read with section 2(11) of the TNVAT Act, 2006.

6. The clarification may therefore be that the **"Humidification Plant, the spares, components and accessories thereof used in manufacturing plants" are liable to VAT at the rate of 5% as capital goods vide Entry 25 of Part-B of First Schedule read with section 2(11) of the TNVAT Act, 2006.**

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Dated this the 2nd Day of September, 2014.

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

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

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

To

Tvl. Ashta Lakshmi Purifiers,
S.F. No.1, Sathy Main Road,
Saravanampatti (Post),
Coimbatore - 641 035

Copy to:

The Assistant Commissioner (CT)
Ganapathy Assessment Circle


The Joint Commissioner (CT),
Coimbatore 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 File3 / Acts Cell-II / Spare - 5.

//Forwarded/By order//


Additional Commissioner (PR)