

**GOVERNMENT OF TAMILNADU  
COMMERCIAL TAXES DEPARTMENT**

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

**ACAAR No.87/2015-16**  
**Acts cell-II/33066/2015**

Dated: 02.05.2018

- Present:**
1. Dr.T.V. Somanathan, I.A.S.,  
Principal Secretary / Commissioner of Commercial Taxes.
  2. Thiru M. Parameswaran,  
Additional Commissioner (ST), (Public Relations)(FAC)
  3. Thiru C. Palani,  
Additional Commissioner (ST), (Revision Petitions)(FAC)

1	Name and address of the Applicant	:	Tvl. Industrial 'H' Packers, No. 259/1, P.K.M. Lane, Athipet Village, Ambattur, Chennai - 600 058.
2.	Registration Certificate No.	:	TIN :33611660202 CST : 55332
3.	Assessment Circle	:	Poonamalle Assessment Circle
4.	Date of application	:	14.10.2015
5.	Date of receipt of application	:	26.10.2015
6.	Clarification sought for	:	Rate of Tax on " <b>Bituminous Emulsions to RDOS Specn. IRSP/30"</b>
7.	Date of Personal Hearing	:	--
8.	Represented by	:	--

**ORDER**

Tvl. Industrial 'H' Packers, No. 259/1, P.K.M. Lane, Athipet Village, Ambattur, Chennai-600 058 (TIN 33611660202), the registered dealers in the files of Poonamalle 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 (TNVAT Act, 2006), read with Rule 12-A of the Tamil Nadu Value Added Tax Rules, 2007 (TNVAT Rules, 2007).

-2-

2. The applicant-dealers have sought for clarification on the rate of Tax on "**Bituminous emulsions to RDOS Specn. IRSP/30**"

3. The issue has been examined in detail with reference to the provisions of the TNVAT Act, 2006 and TNVAT Rules, 2007 and the related entries regarding the commodities classified under the First and Fourth Schedules to the TNVAT Act, 2006. Section 48-A of the TNVAT Act, 2006 provides for clarification on any point concerned with rate of tax for commodities.

4.1. In ACAAR No. 39 & 100/2014-15 (Acts Cell-II/20564 & 37052/2014, dated 05.01.2015 and in ACAAR No. 122/2015 (Acts Cell-II/3229/2015) in the case of Preethy Paints & Chemicals, it has been clarified that

"Paints, such as polyurethane Surface & Polyurethane Full Gloss Enamel and Unsaturated Polyester Putty for Railway Coaches" are liable to CST @ 5% on inter-State sale to Railways as 'Parts of Railway Coaches' under Entry 112 of Part-B of First Schedule to the TNVAT Act, 2006 read with Section 8(2) of the CST Act, 1956."

4.2. It was also clarified in ACAAR No.123/2015 (Acts Cell-II/3229/2015), dated 06.03.2015 in the case of Tvl. Vibgyor Paints that "**Paints for Railway Coaches**" are liable to CST @ 5% on inter-State sales to Railways as "Parts of Railway Coaches" under Entry 112 of part-B of First Schedule to the TNVAT Act, 2006 read with section 8(2) of the Central Sales Tax Act, 1956.

5.1. Entry 112 of part-B of First Schedule to the TNVAT Act, 2006 is as under:

"Railway Wagons, Coaches, Engines and Parts thereof"

5.2. Since the Railway Coaches, Wagons, engines will be incomplete and not appealing and convenient to travel and no longevity of the commodity without use of paints such as polyurethane surfacer and polyurethane full gloss enamel and unsaturated polyester putty, the said goods are considered as parts of Railway coaches and accordingly clarification has been issued that the goods are taxable at 5% as per Entry No. 112 of Part-B of First Schedule to the TNVAT Act, 2006, read with Section 8(2) of the CST Act, 1956 on inter-State sales.

5.3. On the same lines, the commodity Bituminous Emulsion when sold to Railways situated in other State, the rate already

-3-

clarified in the case of Tvl. Vibgyor Paints and Tvl. Preethi Paints & Chemicals is also applicable to the present case.

6. At this juncture, it is essential to point out that the purchase order copy enclosed along with the Form VV application, clearly proved that the sales made to Indian Railways by the applicant-dealer is a local sale and not an inter-State sales though the buyer is located in the other State. In other words, the sale is concluded within the State of Tamil Nadu. This conclusion is arrived from the following note found in the purchase order (Page 19).

"Title of the Goods under this contract will stand passed on to the purchaser i.e., President of India acting through General Manager, West Central Railways, Government of India immediately upon dispatch of these goods from the premises of the contractor irrespective of the payment condition or terms of delivery and irrespective of whether payment has been made in advance or will be made later".

7. Thus, the present transactions on the basis of which clarification sought is a local sale transaction and therefore, taxable at 5% even if the said goods are not covered under Entry 112 of Part-B of First Schedule to the TNVAT Act, 2006, as per the notification issued subject to production of certificate.

8. However, in respect of inter-State transactions, it is clarified that, **"Bituminous Emulsion supplied to Railways located in other States are liable to CST @ 5% as per Entry 112 of Part-B of First Schedule to the TNVAT Act, 2006 read with section 8(2) of the Central Sales Tax Act, 1956"**.

Dated this the second day of May 2018.

Sd/- M. Parameswaran,  
Additional Commissioner (PR)(FAC)

Sd/- C. Palani,  
Additional Commissioner (RP) (FAC)

Sd/- Dr. T.V. Somanathan,  
Principal Secretary/  
Commissioner of Commercial Taxes

To

Tvl. Industrial 'H' Packers,  
No. 259/1, P.K.M. Lane,  
Athipet Village, Ambattur,  
Chennai - 600 058.

Copy to:  
The Assistant Commissioner (ST),  
Poonamalle Assessment Circle.

The Joint Commissioner (ST),  
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 (ST) including Enforcement, LTU, MOU and  
ISIC.

All Deputy Commissioners (ST), 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//**

  
**State Tax Officer** 02/05/18