

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.92/2013-2014
Acts cell-II/24084/2014

Dated:13.08.2018

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

REVIEW ORDER

- Ref :
1. Proceedings of the Authority for Clarification and Advance Rulings in ACAAR.92/2013-14 (Acts Cell-II/38708/2013) to Tvl. Modern Machine Tools Co., No.66(62) Devanga High School Road, Coimbatore - 641 002 dated 10.07.2014
 2. Review application in Form VV received from Tvl. Modern Machine Tools Co., No.66(62) Devanga High School Road, Coimbatore - 641 002 received on 30-07-2014.

Tvl. Modern Machine Tools Co., No.66(62) Devanga High School Road, Coimbatore - 641 002 (TIN: 33921940313), the registered dealers in the files of R.S. Puram (East) Assessment Circle, Coimbatore, has preferred application and sought to issue fresh clarification under Section 48-A 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 fresh clarification on the following:

- 1) Sale of Machinery, spare parts, components & accessories to INDIVIDUAL who is doing job works for the processing of goods to the manufacturers within the state of Tamil Nadu.
- 2) Sale of Machinery, spare parts, components & accessories to EDUCATIONAL INSTITUTE for DEMONSTRATION and TEACHING for PRACTICALS for the processing of goods within the state of Tamil Nadu.
- 3) Sale of Machinery, spare parts, components & accessories to the TIN UNREGISTERED DEALERS/TRADERS who is doing JOB WORKS for PROCESSING of Goods to the Manufacturers within the state of Tamilnadu
- 4) Sale of Machinery, spare parts, components & accessories to TIN REGISTERED DELAERS/TRADERS who is doing job works for the processing of goods to the manufacturers within the state of Tamil Nadu.

3. This committee considered the above application and examined the documents filed along with the application carefully and examined the issue with reference to the Schedules and provisions of TNVAT Act, 2006, Rules made thereunder and notifications issued under the Act.

4. Perusal of the original application filed by the dealer Tvl.Modern Machine Tools on 30.07.2014 and based on the clarification already issued in their own case in ACAAR:092/2013-14 dated 10.07.2014 revealed that their present request is to issue fresh clarification accommodating all their queries and not in the form of review application. Hence, under the powers vested in section 48-A (4) of TNVAT Act 2006, the clarification already issued reviewed and on that basis fresh clarification now issued by taking into account all the factors.

4.2. It is observed from the clarification already issued, though the applicant dealer not specified anywhere about Lathe Machinery, the clarification was issued only with reference to the "Lathe machinery" and not in general as machinery, spares and components. The clarification already issued dealt about two issues namely:

(i) Lathe Machinery sold inside the State to industrial manufacturers and to the traders in the line of distribution

(ii) Lathe Machinery sold in the course of inter-state Trade to un-registered dealer and registered dealers falling under section 8(2) of CST Act, 1956.

But the dealers request is on the following circumstances.

(i) Sale of Machinery, Components, Spare parts and accessories to individual, Educational institute, TIN un-registered dealers and TIN registered dealers **within the State of Tamil Nadu.**

(ii) Interstate sale of Machinery, Components Spare Parts and accessories to individual, Educational institute, un-registered dealers and TIN registered **dealers without Form 'C'.**

(iii) Machine will not run without motor. Hence Clarify Motor is Spare parts of machinery or Not. If motor is spare parts of machinery, what is the **rate of tax for sale of motor along with machinery** and what is the **rate of tax for sale of motor separately within the State of Tamil Nadu.**

5. Hence, the following revised clarification under the powers vested in 48 A-(4) in the form of review is issued covering the above three categories.

- (i) (i)(a) **"Machinery, Components, Spare parts and Accessories"** are liable to tax at the rate of 5% as 'Capital goods' as per **entry 25 of part B** of first Schedule, read with **Section 2(11)** of the TNVAT Act 2006, on sale **inside**

the State to TIN registered dealers if such registered dealers are manufacturers **situated within the State of Tamil Nadu.**

(i)(b) **"Machinery, Components, Spare parts and Accessories"** are liable to tax at the rate of **14.5%** as residual commodity classifiable under **Entry 69 of Part 'C'** of First Schedule on **sales inside the State to individuals, Educational institution and TIN Un-registered dealers,** since they are **not manufacturers** and as there is **no specific entry** with the above description in any of the schedules to the TNVAT Act 2006.

(ii) (ii)(a) **"Machinery, Components, Spare parts and Accessories"** are liable to tax at the rate of **14.5%** as residual commodity classifiable under **Entry 69 of Part 'C'** of First Schedule on **inter-State sales made to individuals, Educational institution Unregistered dealers, without Form 'C' declarations,** as there is **no specific entry** with the above description in any of the schedules to the TNVAT Act 2006.

(ii)(b) **"Machinery, Components, Spare parts and Accessories"** are liable to tax at the rate of **14.5%** as residual commodity classifiable under **Entry 69 of Part 'C'** of First Schedule on **inter-State sales to TIN registered dealers, without Form 'C' declarations,** as the registered dealers **though manufacturers, being located outside the state of Tamil Nadu,** do not fall under the category of "Capital goods" as per **Entry 25 of Part B** of the first schedule read with **Section 2(11)** of the TNVAT Act 2006 and as there is **no specific entry** with the above description in any of the schedules to the TNVAT Act 2006.

(iii) (iii) (a) The clarification to the effect **"Whether motor is a spare part of machinery or Not"** cannot be issued as it is **not within the purview of Section 48-A of TNVAT Act 2006.** Hence the clarification on this point is **not entertainable.**

(iii)(b) If **Motor is spare parts of machinery** then the applicable **rate of tax on Motor is 14.5%** as per entry **27**

of part 'C' of First Schedule to the TNVAT Act 2006, Since there is a specific entry for electric motor in Part 'C' of the First Schedule. In case Motor dealt by the applicant dealer does not fall under entry 27 of Part C of Ist Schedule to TNVAT Act, 2006, the applicable rate of tax for machinery is applicable for Motor as per Proviso to section 3(2) of TNVAT Act 2006 in view of its usage in the machinery dealt by the applicant dealer.

(iii)(c) Electric Motors are taxable at the rate of 14.5% as per Entry 27 of Part C of the First Schedule to the TNVAT Act 2006.

Dated this, the Thirteenth Day of August 2018.

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

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

Sd/- T.V. Somanathan,
Additional Chief Secretary/
Commissioner of Commercial Taxes

To,

Tvl. Modern Machine Tools Co.,
No.66(62) Devanga High School Road,
Coimbatore - 641 002.

Copy to:

The Assistant Commissioner (CT)
R.S.PUram (East) 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//


State Tax Officer