

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.94/2015-16.
(Acts Cell-II/33739/2015)

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. Sri Krishna Trading Co., New No. 152, Gandhi Road, Kancheepuram - 631501
2.	Registration Certificate No.	:	TIN.No.33211620749
3	Date of application	:	30.10.2015
4.	Date of receipt of application	:	30.10.2015
5.	Clarification sought for	:	Rate of tax on "Centrifugal, Monoblock and Submersible Pumpsets"
6.	Date of Personal Hearing	:	Personal hearing not requested
7.	Represented by	:	---

ORDER

Tvl. Sri Krishna Trading Co., New No. 152, Gandhi Road, Kancheepuram - 631501, (TIN.No. 33211620749), the registered dealers in the files of Kancheepuram 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 concerned with the rate of tax on **"Centrifugal, Monoblock and Submersible Pumpsets"**.

3. The applicant-dealer has stated in their grounds for clarification sought annexed to their application, the following:

The applicant-dealer are dealing in Centrifugal, Monoblock and Submersible Pumpsets, ranging from 0.5 HP to 80 HP, manufactured by their suppliers, Tvl. Aquasub Engineering, Coimbatore, a registered dealer under TNVAT Act, 2006.

The applicant-dealer are charged with VAT at 5% by their suppliers. They are also collecting and paying VAT only at 5%.

The Entry in SI.No. 26(a) reads, "Centrifugal and Monoblock, Submersible pumpsets for water handling and parts thereof".

No Specification of horse power in this entry and therefore the centrifugal, monoblock and submersible pumpsets irrespective of horse power is liable to VAT @5% ONLY.

Whereas it is proposed by the assessing authority to assess them on sales of the said products @ 14.5%, on the presumption that the centrifugal monoblock and submersible pumpsets of 3HP and 5 HP alone are liable to VAT @ 5%; and rest of the pumpsets of other capacity are liable to VAT @ 14.5%

The residuary entry is applicable only where the goods are not able to taxed under a specific entry by no conceivable process of reasoning, as per the decision of the Hon'ble Supreme Court in the case of Bharat Forge Industries vs. Commissioner of Central Excise reported in 81 STC 414.

The applicant-dealer furnished literature on Centrifugal, Monoblock and Submersible Pumpsets and the pamphlets containing pictures of the said pumpsets. On the above, the applicant-dealer have prayed that the Authority

may clarify the appropriate rate of tax for the Centrifugal Monoblock and Submersible pumpsets.

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

5. The clarification sought for herein is concerned with the rate of tax on "**Centrifugal, Monoblock and Submersible Pumpsets**".

6. The Entry in SI.No. 26 of Part-B of First Schedule to the TNVAT Act, 2006, as existed in the period upto 31.03.2015, read as extracted below.:

26. (a) ***Centrifugal and Monoblock, Submersible Pumpsets for water handling and parts thereof.***

(b) *Pumpsets of 3 hp and 5 hp*

The sub-entry (b) of the description, "*Pumpsets of 3 hp and 5 hp*" is omitted and substituted by the entry of the description, "Pumpsets up to 10 hp and their parts thereof" vide Act No. 5 of 2015 with effect from 01.04.2015. Entry 26 in Part-B of First Schedule to the Act is a genus of motor pumpsets. The sub-entry (a) is one species and sub-entry (b) is another species of the same genus the "motor pumpsets". The Centrifugal, Monoblock and Submersible pumpsets are the varieties under the species (a) and the pumpsets of 3 HP and 5 HP up to 31.03.2015 and Pumpsets up to 10HP with effect from 01.04.2015, are varieties of the species (b) of the genus "Motor Pumpsets".

7. The Entry in SI.No. 26(a), "Centrifugal and Monoblock, Submersible Pumpsets" in Part-B First Schedule to the Act does not specify the capacity of such pumpsets in terms of horse power. Therefore the Centrifugal, Monoblock and Submersible pumpsets of any horse power irrespective of horse power would fall under the Entry 26 (a) of Part-B of First Schedule to the Act and attract the liability to VAT only at 4% in the period from 01.01.2007 to 11.07.2011 and 5% in the period after 12.07.2011 to still.

8. It is therefore clarified that the "**Centrifugal and Monoblock, Submersible Pumpsets of any HP**" for water handling are taxable at 5% as per Entry in Sl. No.26 (a) of Part-B of First Schedule to the TNVAT Act, 2006.

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. Sri Krishna Trading Co.,
New No. 152, Gandhi Road,
Kancheepuram - 631501

Copy to:
The Deputy Commissioner (CT),
Kancheepuram Assessment Circle.

The Joint Commissioner (CT),
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 (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) 30/11/15