

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

**ACAAR No.095/ 2013-14,
(Acts Cell-II/39291/2014)**

Dated 10.07.2014

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. K.Mahalingam,
Additional Commissioner (CT), (Revision Petitions)

1.	Name and address of the Applicant	:	Tvl. Godrej Consumer Products Ltd., "Capitale" VI-th Floor, No.554/555, Anna Salai, Teynampet, Chennai- 600 018.
2.	Registration Certificate No.	:	TIN:33350862520 / CST:794030
2.	Date of application	:	27.12.2013
3.	Date of receipt of application	:	27.12.2013
4.	Clarification sought for	:	Rate of Tax on "Godrej HITRAT" (Rodenticide Cake containing Bromodialone)
5.	Date of Personal Hearing	:	-- --
6.	Represented by	:	-- --

ORDER

Tvl. Godrej Consumer Products Limited, @ "Capitale" VI-th Floor, No.554/555, Anna Salai, Teynampet, Chennai- 600 018 (TIN: 33350862520), the registered dealers in the files of Adyar-I assessment circle, Chennai marketing "Godrej HITRAT", a rodenticide cake containing Bromodialone, manufactured by Tvl. Fytocare Chemicals (P) Limited, S.F. No.397/3, Madukkarai Main Road, Bodipalayam, Coimbatore -641 105, 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 on "**Godrej HITRAT**" (Rodenticide Cake containing Bromodialone)"

3. The applicant-dealers have stated that they are marketing a rodenticide cake containing Bromadiolone, manufactured by Tvl. Fytocare Chemicals (P) Limited, S.F. No.397/3, Madukkarai Main Road, Bodipalayam, Coimbatore-641 105, in their brand name, "Godrej HITRAT". The applicant-dealers have stated that HITRAT is predominantly used to kill rats and mice. The applicant-dealers have enclosed the pamphlet along with their application, revealing the details about the chemical composition and the rate of toxicity of the product, "HITRAT". It is claimed that it acts as slow poison and kills the rats and mice within a span of four to five days after intake by the said animals. HITRAT can be used against the black rats in agricultural fields and houses, house mice and big Indian Bandicoots and thus it acts as a pest control agent. The applicant-dealers have therefore claimed that the said product is eligible to be classified under Entry 27 of Part-B of First Schedule to the TNVAT Act, 2006, so as to attract the levy of tax at the rate of 5 % under the said entry. The applicant-dealers have requested to clarify accordingly the appropriate rate of tax applicable to the product, "Godrej HITRAT" – a rodenticide cake containing Bromadiolone.

4.1. The issue has been examined in detail with reference to the provisions of the TNVAT Act, 2006 and Rules, 2007; and the classification of commodities under relevant entries in respective Schedules to the TNVAT Act, 2006. The clarification is given accordingly as under:

4.2. Section 48-A of TNVAT Act, 2006 provides for clarification on any point concerned with rate of tax for commodities.

4.3. The applicant-dealers have sought for clarification regarding rate of tax "**Godrej HITRAT**" - a rodenticide cake containing Bromadiolone."

5.1. It is stated by the applicant-dealers that they are marketing a rodenticide cake containing Bromadiolone .005 %, manufactured by Tvl. Fytocare Chemicals (P) Limited, S.F. No.397/3, Madukkarai Main Road, Bodipalayam, Coimbatore-641 105, in their brand name, "Godrej HITRAT". The pamphlet accompanied their application has revealed the details about the chemical composition and the rate of toxicity of the product, "HITRAT". The rodenticide cake "Godrej HITRAT" contains Bromadiolone at 0.005 % w/w and adjuvants at 99.995 % w/w. It is claimed that it acts as slow poison and kills the rats and mice within a span of four to five days after intake by the said animals. HITRAT can be used against the black rats in agricultural fields and houses, house mice and big Indian Bandicoots and thus it acts as a pest control agent.

5.2 Entry 27 (ii) of Part-B of First Schedule to the TNVAT Act, 2006, as existed from 01.01.2007 to 11.07.2011, reads as extracted below:

27 (ii) *Insecticides, **pesticides**, **rodenticides**, germicides, Weedicides, fungicides, herbicides and combinations thereof , anti-sprouting products, plant-growth promoters, plant nutrients, micro*

nutrients, bio fertilizers, disinfectants and gypsum of all forms and descriptions,

The product, "rodenticide cake containing Bromadiolone" manufactured by Tvl. Fytocare Chemicals (P) Limited, Coimbatore-651 105 and marketed by the applicant-dealers in their brand name. "Godrej HITRAT" is claimed to be toxic on black rats in Agricultural fields as well as in houses, house mice and Indian Big Bandicoots and used widely to kill the said animals. Rats and mice are considered to be the pests as they eat large quantity of food grains stored by men and cause food grain plants cultivated in the fields, as they are always gnawing with their ever growing incisor teeth in their upper jaw; and also acts as vector for spreading some bacterial diseases like bubonic plague. The product "Godrej HITRAT", being used to kill the pests like rats and mice, can be classified to be a "**pesticide**" as employed in Entry 27(ii) of Part-B of First Schedule to the Act. Besides, another pertinent point to be considered here is that the rats, mice bandicoots are biologically known as Rodents as they are classified under the **Order: Rodentia of the Class: Mammalia of Vertebrates**. As the product "Godrej HITRAT", is being used to kill the mice, rats, and bandicoots which are called as rodents, it would be more opt to classify this product within the scope of expression, "**Rodenticide**" employed in Entry 27(ii) of Part-B of First Schedule to the Act. The pesticide or rodenticide was taxable under this Entry at 4 % from 01.01.2007 to 11.07.2011 only at the point of first sale inside the State since the second and subsequent sales inside the State are exempt from VAT vide Notification No. II (1)/CTR (b)/2007 in G.O. Ms. No.16, Commercial Taxes and registration Department, dated 04.01.2007.

5.3. Whereas the Entry 27 (ii) in Part-B of First Schedule was omitted from 12th July 2011 onwards by Notification No. II (1)/CTR/12(R-12)/3011 in G.O.No.76-VIII/ Commercial Taxes and Registration Department dated 11th July 2011 (Act No. 30 of 2011) and inserted as Entry No.17-A (ii) of Part-B of Fourth Schedule to the Act. The Notification No.II (1)/CTR (b)/2007 in G.O. Ms. No.16, Commercial Taxes and registration Department, dated 04.01.2007 enabling the exemption on second and subsequent sales of pesticides, or rodenticide was cancelled vide Notification No. II(i)/CTR/12(R-2)/2011 dated 11th July 2011. Thus, the pesticide, rodenticide have been fully exempt from VAT by virtue of Entry 17-A(ii) of Part-B of Fourth Schedule to the Act, with effect from 12th July 2011. Entry 17-A(ii) of Part-B of Fourth Schedule reads as under:

*17-A (ii) Insecticides, **Pesticides, Rodenticides**, Germicides, Weedicides, Fungicides, Herbicides and combinations thereof, Anti-sprouting products, plant-growth Promoters, Plant Nutrients; Micro Nutrients, Bio fertilizers, Disinfectants and Gypsum of all forms and descriptions.*

The above said Entry 17-A of Part-B of Fourth Schedule with its sub-entries (i) and (ii), was omitted as per ACT No 14 of 2013, TNVAT (Third Amendment) Act, dated 29.05.2013. Simultaneously the commodities under sub-entries (i)

and (ii) of the omitted Entry have been brought into Fourth Schedule under its Part-B, by an Entry No.38-A, inserted as per TNVAT (Third Amendment) Act, (ACT No. 14 of 2013) dated 29.05.2013. Entry No.38-A of Part-B of Fourth Schedule as inserted from 29.05.2013 reads as under:

38-A Goods which are used for agricultural / horticultural purposes, namely:-

- (a) *Chemical Fertilizers*
- (b) *Insecticides, Pesticides, **Rodenticides**, Weedicides, Fungicides, Herbicides and combinations thereof, Plant growth promoters, Plant Nutrients, Micro Nutrients and Bio fertilizers.*

As per this Entry 38-A(b) of Part-B of Fourth Schedule, the pesticide or rodenticide is exempt from VAT if such goods are used either for Agricultural or for Horticultural purpose.

5.4. The expression, "**pesticide**" employed in all the above said entries 27(ii) of Part-B of First Schedule as existed from 01.01.2007 to 11.07.2011, 17-A(ii) of Part-B of Fourth Schedule as existed from 12.07.2011 to 28.05.2013 and 38-A (b) of Part-B of Fourth Schedule as existed from 29.05.2013 and onwards, is a general expression which covers almost all kinds of pesticides currently in use. Whereas the expression, "**rodenticide**" as employed in all the above said entries in Part-B of First and/or Fourth Schedules to the Act as existed in the respective period, is more specific to cover the toxic product that kills the Rats, mice and bandicoots, which are classified biologically as "**Rodents**" belonging to the "Order – Rodentia" of Family- Mammalia among the vertebrates. The Product "Godrej HITRAT" containing Bromadiolone .005 % w/w, the rat poison, would therefore fall under Entry 17-A (ii) and Entry 38-A (b) as existed in Part-B of Fourth Schedule to the Act, in the periods respectively from 12.07.2011 to 28.05.2013 and from 29.05.2013 ad onwards and identifiable as "Rodenticide" by virtue of the expression, 'rodenticide' employed therein.

5.5 The Entry 17-A (ii) of Part-B of Fourth Schedule to the Act as existed from 12.07.2011 to 28.05.2013 was more general in respect of purpose, for which the commodities were being used. But, the Entry 38-A is more specific that the goods specified under this Entry must have to be used only either for Agricultural or for Horticultural purposes. Otherwise the exemption provided by virtue of this Entry 38-A will not be available. Here, the pamphlet accompanied the application has revealed that the product, "Godrej HITRAT" is for the purpose of killing the rats in paddy, wheat, groundnut, pulses, coconut and sugarcane fields. Besides, it can also be used to kill the rats, mice and bandicoots in houses and warehouses. Therefore, the product is eligible to be classified as "**rodenticide**" **used for agricultural / horticultural purpose** as envisaged under Entry 38-A (b) of Part-B of Fourth Schedule to the TNVAT Act, 2006 and thus eligible for exemption from VAT, **if exclusively used for agricultural or horticultural purpose, that is to say that it is used for killing rats in the cultivating fields.** Otherwise, it is

liable to be classified as a residual commodity, attracting the levy of tax at the rate of 14.5 %, under Entry 69 of the description, "Any other goods not specified in any of the Schedules to the Act" in Part-C of the First Schedule to the TNVAT Act, 2006.

6. The clarification is therefore that the product, "**Godrej HITRAT**" containing **Bramodialone .005 % w/w** is eligible to be classified as "**Rodenticide**"; and hence

"liable to exemption from VAT at present by virtue of Entry 38-A(b) of Part-B of Fourth Schedule to the TNVAT Act, 2006, as the expression, "**rodenticide**" is employed therein **if it is used exclusively for agricultural purposes to kill the rats in the cultivating fields** and sold through dealers dealing in agricultural inputs.

Dated this the 10th day of July 2014.

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

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

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

To

Tvl. Godrej Consumer Products Ltd.,
"Capitale" VI-th Floor,
No.554/555, Anna Salai,
Teynampet,
Chennai- 600 018.

Copy to:

The Assistant Commissioner (CT)
Adyar – I 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.

6

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)