

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

ACAAR No.95/2013-14
Acts cell-II/39291/2014

Dated:30.12.2016

- Present:**
1. Dr. C. Chandramouli, I.A.S.,
Additional Chief Secretary / Commissioner of Commercial
Taxes.
 2. Thiru. A. Sarvar Allam,
Additional Commissioner (CT), (Public Relations)(FAC)
 3. Thiru. K. Mahalingam,
Additional Commissioner (CT), (Revision Petitions)

REVIEW ORDER

- Ref:**
1. Proceedings of the Authority for Clarification and Advance Ruling ACAAR No.95/2013-14 (Acts Cell II/39291/2014) dated 10.07.2014.
 2. Review Applications for ACAAR No.95/2013-14 from Tvl. Godrej Consumer Products Ltd, Capitale Towers, 6th Floor, No. 554 & 555, Annasalai, Teynampet, Chennai - 600 018 received on dated 18.12.2014

Tvl. Godrej Consumer Products Ltd, Capitale Towers, 6th Floor, No. 554 & 555, Annasalai, Teynampet, Chennai - 600 018 (TIN:33350862520), registered dealers in the files of LTU-DC1 Assessment Circle have preferred application under Section 48-A (4) 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) for review of clarification already advanced vide proceedings 1st read above.

2. On application by the same applicant dealers, it was clarified in the proceedings 1st cited as follows:

"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 "

3.1. The applicant-dealers have requested to review the above clarifications contending that Godrej HIT RAT conforms to the Entry 38-A (b) of Part-B of Fourth Schedule to the TNVAT Act. However, the Authority has erred in holding that Entry 38-A covers only those goods which have their application "exclusively" for agricultural purposes to kill rat in the cultivating fields and sold through dealers dealing in agricultural inputs" and the finding that the above condition is unnecessary and not contemplated in the language of Entry 38- A.

3.2. It is also stated that Entry 38-A is clear and unambiguous in its wording and in no sense excludes from its purview goods having their application in household in addition to use in agricultural/horticultural purpose. Hence on the above stated ground the applicant-dealers have sought to review/amend the clarification already issued vide ACAAR 95/2013-14 dt.10 July 2014 by removing the reference "if it is used exclusively for agricultural purposes to kill rat in the cultivating fields and sold through dealers dealing in agricultural inputs" in para 6 of the order already issued and to clarify that "Godrej Hit Rat" is classifiable under Entry 38-A (b) of Part-B of Schedule IV to the TNVAT Act and exempt from VAT liability.

4. The applicant-dealers sought for personal hearing and accordingly they were heard on 28.11.2016. Thiru. Shreyas Shrivastava, (AM- Indirect Tax) appeared for the hearing and filed written statements along with documentary evidences and submitted the above contentions

5. This committee considered the above application and the documents filed along with the application carefully and examined the issue with reference to the clarification already issued, Schedules and provisions of TNVAT Act, 2006, Rules made thereunder and notifications issued under the Act. The contentions made by the learned Counsel for the applicants at the time of personal hearing were also examined thoroughly.

6.1. There is no dispute in the finding that 'Hit Rat' dealt by the applicants is a rodenticide used to kill rats. Entry 38-A of Part-B of Fourth Schedule to TNVAT Act, 2006 reads as follows:-

"Goods which are used for Agricultural/horticultural purposes, namely:

- a) Chemical Fertilizers
- b) Insecticides, Pesticides, Rodenticides, Germicides, Weedicides, Fungicides, Herbicides and combinations thereof, plant-growth promoters, Plant Nutrients, Micro nutrients, Bio -nutrients"

The words 'namely' followed by the main Entry 'Goods which are used for Agricultural/horticultural purposes' make the Entry an enumerative Entry with the condition that the goods enumerated under the above Entry should fulfil the condition prescribed in the main Entry. Therefore, the goods enumerated under the Entry used exclusively for agricultural and horticultural purposes only would fall under this Entry. Since the goods are described clearly with reference specific usage, the goods used for other purposes like household usage cannot be included in the above Entry as claimed by the applicant dealers. However, the applicant dealers have questioned the extended description of the goods while clarifying the rate of tax. Therefore, restricting the clarification to the description of Entries available in the Schedules, the following revised clarification is issued in supersession of the clarification issued in ACAAR No.95/2013-14 (Acts Cell II/39291/2014) dated 10.07.2014:-

If **Godrej Hit Rat** dealt by the applicant dealers is sold for use in agricultural/horticultural purpose, the goods are exempt from levy of tax, being rodenticide falling under Entry 38-A of Fourth Schedule to TNVAT Act, 2006. If the goods are sold for use in other

than agricultural/horticultural purpose, they are liable at 14.5% under Entry 69 of First Schedule to TNVAT Act as a residuary item.

Dated this the Thirtieth day of December 2016.

Sd/- A. Sarvar Allam,
Additional Commissioner (PR)(FAC)

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

Sd/- Dr.C. Chandramouli, I.A.S.
Additional Chief Secretary/
Commissioner of Commercial Taxes

To
Tvl.Godrej Consumer Products Ltd,
Capitale Towers, 6th Floor,
No. 554 & 555, Annasalai,
Teynampet, Chennai – 600 018

Copy to:
The Deputy Commissioner (CT)
LTU-DC1 Assessment Circle,

The Joint Commissioner (CT),
LTU 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//

U. Narayanan
4.1.17
Commercial Tax Officer