

**GOVERNMENT OF TAMILNADU  
COMMERCIAL TAXES DEPARTMENT**

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

**ACAAR No.96/2013-14**  
**Acts cell-II/3227/2015**

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.96/2013-14 (Acts Cell-II/39292/2014) dated 30.06.2014.
  2. Review Applications for ACAAR No.96/2013-14 from Tvl. Godrej Consumer Products Ltd, Capitale Towers, 6<sup>th</sup> Floor, No. 554 & 555, Annasalai, Teynampet, Chennai - 600 018 received on dated 03.02.2015

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Tvl. Godrej Consumer Products Ltd, Capitale Towers, 6<sup>th</sup> 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 1<sup>st</sup> read above.

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

The clarification is therefore that the product, "**Godrej HIT Chalk**" containing **Cypermethrin a.i. 1.0 % w/w** is eligible to be classified as "**insecticide - not used for agricultural or**

**horticultural purposes**" standing outside the purview of the Entry 38-A(b) of Part-B of Fourth Schedule; and hence, **liable to tax at the rate of 14.5 % as a residual commodity** not specified in any of the Schedule **under Entry 69 of Part-C of First Schedule** to the TNVAT Act, 2006.

3.1. The applicant-dealers have requested to review the above clarifications on the following grounds and to classify "Hit Chalk" under any one of the following items liable to tax at 5%:

(i) **Godrej Hit Chalk** is an insect killer device classifiable under Entry 27(iv) of part-B of First Schedule with the description "Mosquito destroyers, insect killer devices including heating devices used with insect repellent mats". It has been clarified by the Authority that a device means an apparatus or tool or machinery or equipment; however "Godrej Hit Chalk" is not an apparatus or tool or equipment but a mode of intoxication and hence not a device and hence the Authority held that "Godrej Hit Chalk" is not classifiable under Entry 27(iv) of Part-B of First Schedule to the TNVAT Act.

The applicant-dealers have stated that according to Oxford concise dictionary, Black's law Dictionary and Ramnath Iyer's Law Lexicon definition of 'device' hold good to Godrej Hit Chalk as contrivance being a scheme or a thing adopted for a particular purpose.

(ii) **Godrej Hit Chalk** may also be classifiable under Entry 56-A of Part-B of First Schedule with the description "Gypsum of all forms & description". It is submitted that "Godrej Hit Chalk" is composed of Cypermethrin a.i 1.0% w/w and methanol 10% w/w as its active ingredients and Adjuvants (performing auxillary function of holding Cypermethrin) which is nothing but Gypsum. Also, it is stated that M/s. Fytcare Chemicals Pvt Ltd (Assesse in Perur Circle, Coimbatore) which manufactures "Godrej Hit Chalk" and independently manufacture other similar products containing

Assistant Commissioner Perur Circle to classify such goods as manufactured under Entry 56-A of Part B of First Schedule to the TNVAT Act with effect from May 28, 2013 on account of inclusion of Entry 56A under the First Schedule.

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 reiterated the above contentions.

5. This committee considered the above review application and 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. The contentions made by the learned Counsel for the applicants at the time of personal hearing were also examined thoroughly.

6. The contentions made in the review application and during the personal hearing are discussed as follows:

(i) As far as the claim of the applicants that HIT Chalk to be classified as insect killer device under Entry 27(iv) of Part-B of First Schedule to TNVAT Act is concerned, these contentions were already considered in the original application and the same were rejected on merits. Therefore, the applicants cannot raise the same grounds in this review application.

(ii) The new ground raised by the applicants in this review application is that insecticidal chalk "Godrej HIT Chalk" is classifiable under Entry 56-A of Part-B of First Schedule with the description "Gypsum of all forms & description" as the product is mainly made of gypsum. In commodity taxation common parlance theory is applied to decide the classification of a product, as to how

the product is marketed and recognized in the market by common man. The HIT chalk is marketed by the applicants as household insecticide, as prominently noted in the brochure of the product. Consumers of the product recognize and buy this product as an insecticide not as gypsum. Therefore, the HIT chalk dealt by the applicants cannot be classified as gypsum product, as claimed by them. Therefore, this new ground raised by the applicant dealers is also not acceptable.

In view of the above discussion, the review application filed by the applicants fails and the same is rejected and the clarification already issued in ACAAR No.96/2013-14 (Acts Cell II/39292/2012) is reiterated.

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, 6<sup>th</sup> Floor,  
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Teynampet, Chennai - 600 018

Copy to:  
The Deputy Commissioner (CF)  
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  
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. A.?

Personal Clerk to the CCT.

Stock File 3/ Acts Cell-II /Spare - 5.

//Forwarded/by Order//

*W. Narayan*  
21.17  
Commercial Tax Officer