

**GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT**

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

Acts cell-II/15460/2018

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)

1.	Name and address of the Applicant	:	Tvl. Migatronic India Pvt. Limited No.22 & 39/20H, Sowri Street, Alandur, Chennai – 600 016
2.	Registration Certificate No.	:	TIN. 33186221718 CST No. 732023
3.	Assessment Circle	:	The Assistant Commissioner (ST), Alandur Assessment Circle
4.	Date of application	:	11.05.2018
5.	Date of receipt of application	:	17.05.2018
6.	Clarification sought for	:	Rate of tax on “Welding Machines and Machine Spares”
7.	Date of Personal Hearing	:	--
8.	Represented by	:	--

ORDER

Tvl. Migatronic India Pvt. Limited, No.22 & 39/20H, Sowri Street, Alandur, Chennai – 600 016 (TIN: 33186221718), registered dealer in the files of Alandur Assessment Circle have preferred application in Form 'VV' and sought clarification 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).

2. The applicant-dealers have sought clarification regarding rate of tax on **"Welding Machines and welding Machine Spares"**.

3.1. The applicant dealer have file review application for clarification on 17/05/2018 the period where the VAT Act has been repealed except in respect of goods included in Entry 54 of the State List of the Seventh Schedule to the Constitution.

3.2. As per Section 174(2) of the Tamil Nadu Goods and Services Tax Act, 2017, repeal of the TNVAT Act 2006 and the amendment of the Acts specified in Section 173 (hereafter referred to as "such amendment" or "amended Act", as the case may be) to the extent mentioned in sub-section (1) of Section 173 shall not revive anything not in the force or existing at the time of such amendment or repeal.

4. Though Section 48-A(4) of the TNVAT Act, 2006 provides for clarification on any point concerned with rate of tax for commodities based on the review application filed by the applicant-dealer with reference to the clarification already issued in the case of Tvl. Shree Hydraulic Engineers in ACAAR No.80/2013-14 (Acts cell-II/34096/2013) dated 22/07/2014, the said provisions of the TNVAT Act 2006 cannot be put into operation except for those six goods included in Entry 54 of the State List of the Seventh Schedule to the Constitution. In other words, Section 48-A can be invoked during the year 2018-19 only in respect of clarification sought for the goods viz. Natural Gas, Petroleum Crude, Petroleum, High Speed Diesel, Aviation Turbine Fuel and Alcoholic Liquor for Human Consumption.

5. Though the applicant dealer relied on various judgments in support of the claim that the Clarification in ACAAR. No. 80 of 2013-14 dated 22/07/2014 issued in a manner contrary to the provisions of Section 8(2) of CST Act, 1956, such judicial decisions are neither binding nor can be examined in the present circumstances as the statutory provision of TNVAT Act 2006 does not permit in considering the review application filed under Section 48(A)(4) of TNVAT Act, 2006 for the commodities that are dealt under TNGST Act, 2017.

6. Though the Madras High Court in various decisions, have permitted the persons who are not applicants and are aggrieved by the ruling given by the Advance Ruling Authority to file review application under Section 48-A(4) of TNVAT Act, 2006, the said review

application cannot be taken up for hearing in view of the fact that the said provisions of the TNVAT Act 2006 are not in force.

7. Even though, the claim of the applicant dealer pertains to the transaction period prior to GST i.e., before 01/07/2017, the said original application or review application cannot be considered as the present law i.e., the TNVAT Act, 2006 that is existing in the present form is operational only with reference to certain specified goods as the goods for which clarification sought are goods that are administered under TNGST Act, 2017.

8. The review application filed by the applicant dealer can be considered even now only if the said application filed during the operational period of TNVAT Act 2006 in respect of the goods for which clarification sought and only in the case where the clarification issued during the period prior to 01/07/2017 and not being satisfied with the said clarification filed an application for review before the said period.

9. Hence, for the above said reasons, the review application filed by the applicant dealer is rejected as not feasible of compliance as there is no enabling provision under TNVAT Act 2006 to issue clarification.

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. Migatronic India Pvt. Limited
No.22 & 39/20H, Sowri Street,
Alandur, Chennai – 600 016.

Copy to:
The Assistant Commissioner (ST),
Alandur Assessment Circle.

The Joint Commissioner (ST),
Chennai (East) 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 (ST) including Enforcement, LTU, MOU and
ISIC.

All Deputy Commissioners (ST), 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//


State Tax Officer