

ABSTRACT

Waiver – Commercial Taxes Department – Waiver of tax, additional sales tax and penalty payable on the purchase of Raw hides and skins by exporters of tanned hides and skins for the period from 23.03.1987 to 30.11.1997 under the Central Sales Tax Act, 1956 in Vellore and Madurai Commercial Taxes Divisions - Orders - Issued.

Commercial Taxes and Registration (D2) Department

G.O. (2D) No.14

Dated:07.02.2022

பிலவ, தை-25

திருவள்ளூர் ஆண்டு, 2053

Read:

ADC (W&T) From the Principal Secretary / Commissioner of Commercial Taxes Letters No.VA-5(DC-II)/14349/1999, dated 29.06.2021.

ORDER:-

Raw hides and skins were taxable at the point of last purchase in the State and Dressed hides and skins were taxable at the point of first sale in the State. The exporters, who purchased Raw hides and skins and exported Dressed hides and skins after tanning, were granted exemption on the purchase of Raw hides and skins following the decision of Hon'ble Madras High Court in the case of Tvl.Azizur Rahman & Company reported in 82 STC 355. There are also other decisions holding the above view, namely, 84 STC 133 (KARNATAKA) Farida Prime Tannery; 91 STC 336 (MADURAI) M.S.Md.Siddique & Company; and 92 STC 277 (MADURAI) A.Abdul Malick & Company. These decisions were rendered in the context of exemption under Section 5(3) of the Central Sales Tax Act, 1956 on the ground that Raw hides and skins and Dressed hides and skins are the same goods under the Central Sales Tax Act, 1956.

2. The Hon'ble Madras High Court in the case of Tvl.K.A.K.Anwar & Company reported in 56 STC 58 held that inter-State sales of Dressed hides & skins cannot be exempted on the basis of the Notification issued in 3602/Revenue, dated 28.12.1963 on the ground that it is not possible to say that for the purposes of Central Sales Tax Act, 1956, Raw hides and skins and Dressed hides and skins should be taken to be commercially the same commodity.

3. The Hon'ble Madras High Court in the case of Brown Leather & Company (91 STC 1) upheld the Tamil Nadu General Sales Tax (Third Amendment) Act and G.O.P.No.291, dated 20.3.1987 on the ground that in trade circles and in commercial parlance, the actual position is that Dressed hides and skins are not only distinct and separate in identity and marketability, but also have a higher value and price, double that of Raw hides & skins and, therefore, they could be treated as different goods.
4. The above two decisions of the Madras High Court, i.e., 56 STC 58 and 91 STC 1, were affirmed by the Hon'ble Supreme Court in the case of Tvl. K.A.K. Anwar & Company reported in 108 STC 258. The Hon'ble Supreme Court had held that the words "Hides & Skins, whether in a raw or dressed state" in Section 14(iii) of the Central Sales Tax Act, 1956 clearly indicate that the Legislature recognized that Raw hides and skins were a different item from Dressed hides and skins. This decision was rendered by the Hon'ble Supreme Court on 27.11.1997.
5. After this judgment, the Assessing Officers started to revise the assessments where exemption was allowed on the purchase turnover of Raw hides & skins under Section 5(3) of the Central Sales Tax Act, 1956. There were also cases where such claims were disallowed in original assessment.
6. It was represented by the Trade that the decision of the Supreme Court (108 STC 258) was not concerned with Section 5(3) of the Central Sales Tax Act, 1956 but with regard to the powers of the State Legislature to tax the goods at different stages and requested to instruct the Assessing Officers not to reopen the assessments on the basis of the decision reported in 108 STC 258. Though the Supreme Court decision was not rendered in the context of Section 5(3) of the Central Sales Tax Act, 1956, the point decided was relevant to decide a claim under Section 5(3) of the Central Sales Tax Act, 1956. Once Raw hides and skins are held to be a different commercial commodity from Dressed hides and skins, the purchase of Raw hides and skins by an Exporter is liable to tax at last purchase in the State as the exported goods were Dressed hides and skins after tanning. Thus, the request made by the Trade, therefore, was not accepted initially.
7. An alternate plea was subsequently made by the Trade to give effect to the decision of the Supreme Court from 27.11.1997 and to waive the demand for the period prior to 27.11.1997. The above request was examined and found acceptable in view of the earlier clarification issued in Circular D.Dis.Acts Cell-III/129820/98, dated 18.7.1994 and D.Dis.Acts Cell-III/ 30702/95, dated 6.10.1995 wherein it was clarified that the purchase turnover of Raw hides and skins which were tanned and exported as Dressed hides and skins would qualify for exemption under Section 5(3)

of the Central Sales Tax Act, 1956 in view of the decision of the Hon'ble Supreme Court in the case of Tvl.Mahe Traders reported in 73 STC 228.

8. Consequent to the decision of the Hon'ble Supreme Court of India rendered in the case of Tvl.K.A.K.Anwar & Company reported in 108 STC 258, original / revision of assessment was made by the assessing officers concerned on the purchase turnover of Raw hides and skins that were subsequently exported as Tanned Leathers for the period from 23.03.1987 to 30.11.1997 under the Central Sales Tax Act, 1956.

9. In the letter read above, the Principal Secretary/Commissioner of Commercial Taxes requested the Government to consider the proposal to waive the tax, additional sales tax and penalty that arose due to the original/revision of amendment made in respect of dealers in the Vellore and Madurai Commercial Taxes Divisions. Based on the request of the Government, the Principal Secretary/Commissioner of Commercial Taxes had placed the waiver proposal before the Waiver Committee for its approval. The Waiver Committee agreed to the above proposal.

10. The Government, after careful examination, have decided to accept the recommendation of the Waiver Committee. Accordingly, in exercise of the powers conferred under item 7 of Appendix 21 of Chapter XII of the Tamil Nadu Financial Code Volume-II, the Government waive a sum of Rs.77,85,394/- (Rupees seventy-seven lakhs eighty-five thousand three hundred and ninety-four only), being the tax, additional sales tax and penalty payable on the purchase of raw hides and skins by exporters of tanned hides and skins under the Central Sales Tax Act, 1956, in the Vellore and Madurai Commercial Taxes Divisions as indicated below, for the period from 23.03.1987 to 30.11.1997.

Sl. No.	Assmt. year	Name of the dealer	Amount (in Rupees)			
			Tax	AST	Penalty	Total
1.	1988-89	Shafeeque Shamed, Ambur	104265	568704	0	672969
2.	1989-90	Shafeeque Shamed, Ambur	60157	234610	0	294767
3.	1990-91	Shafeeque Shamed, Ambur	340554	531788	0	872342
4.	1993-94	Shafeeque Shamed, Ambur	712990	0	1069485	1782475
5.	1997-98	V.A.S. Noorullah and Company, Udayandiram	220316	0	0	220316

6.	1997-98	Farida Prime Tannery Thuthipet	704983	0	352492	1057475
7.	1997-98	C. Thufail Ahmed and Company	337771	0	0	337771
8.	1995-96	Safiya Leather Export, Dindigul	876144	0	1314216	2190360
9.	1993-94	Payas Tanners	66810	100217	0	167027
10.	1993-94	Safiya Leather Exports Dindigul	146716	0	0	146716
11.	1994-95	C.K.C.M. Khadersha and Brothers, Dindigul	34207	0	0	34207
12.	1997-98	Jaleel Tanning Company, Dindigul	8969	0	0	8969
		Total	3613882	1435319	2736193	7785394

11. This order issues with the concurrence of the Finance Department-vide its U.O. No 1239/Res-I /2022, dated 02.02.2022.

(By Order of the Governor)

B. JOTHI NIRMALASAMY
SECRETARY TO GOVERNMENT.

To

✓ The Additional Chief Secretary /

Commissioner of Commercial Taxes, Chennai-5.

The Joint Commissioner (CT) concerned.

The Accountant General (A&E), Chennai - 18.

The Accountant General (Audit), Chennai - 18.

The Pay and Account Officer concerned (through the Additional Chief Secretary/Commissioner of Commercial Taxes, Chennai - 5).

Copy to:

The Chief Minister's Office, Chennai-9.


The Private Secretary to the Secretary to Government,
Commercial Taxes and Registration Department, Chennai-9.

The Special Personal Assistant to the Minister
(Commercial Taxes and Registration), Chennai - 9.

The Finance (Revenue) Department, Chennai - 9.

Stock file/Spare copy.

//Forwarded by Order//


10/2/22
SECTION OFFICER
14/2/22