



**ABSTRACT**

Commercial Taxes Department – Waiver – Waiver of Tax, Surcharge and Additional Sales Tax payable by Tvl. Subhadra Alloys Private Limited for the year 1992-1993 under Tamil Nadu General Sales Tax Act, 1959 – Orders – Issued.

**Commercial Taxes and Registration (D2) Department**

G.O.(D) No.137

**10308**

Dated: 24.03.2017

துன்முகி, பங்குனி 11

திருவள்ளூர் ஆண்டு 2048

Read:

1. The Special Commissioner and Commissioner of Commercial Taxes circular No.DC/85146/1993, dated 14.09.1993.
2. The Commissioner of Commercial Taxes letter No.DCII/67791/2004, dated 22.10.2010.
3. Government letter No.14399/D2/2014-1, Commercial Taxes and Registration (D2) Department, dated 12.12.2014.
4. The Additional Chief Secretary/Commissioner of Commercial Taxes letter No.Drafting Cell II/67791/2004, dated 01.08.2016.

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**ORDER:**

The Special Commissioner/Commissioner of Commercial Taxes in modification of all previous instructions, in his circular first read above, clarified that rough (un-machined) cast iron castings are liable to be taxed as declared goods under sub-item 1 of item 4 of the Second Schedule to the Tamil Nadu General Sales Tax Act, 1959 by which a single point of tax @ 4% only is leviable at the first point first sale in the state.

2. The Commissioner of Commercial Taxes in his letter second read above informed that Tvl. Subhadra Alloys Private Limited, Mathur, Pudukottai District were assessed for Rs.2,21,04,722/- for the year 1992-1993 under the Tamil Nadu General Sales Tax Act, 1959, on the first sale of Cast Iron Castings used as Machinery Spares @ 10%. On appeal, in the various forums, finally the Joint Commissioner-III (Suo Moto Review) confirmed the turnover on machinery parts to be taxed @ 10%.

3. Also in the light of the ruling of the Tamil Nadu Sales Tax Appellate Tribunal and the observation of Supreme Court of India, the Principal Secretary/Commissioner of Commercial Taxes took a stand that since the cast iron castings (whether machined or unmachined) have to be treated as distinct and different from cast iron and they are parts

of machinery/automobiles etc, they are to be classified as parts of Machinerios, automobiles etc., liable to be taxed @ 10% under respective items in the first schedule of the Act, and requested all Joint Commissioners to send a report. Accordingly except the Joint Commissioner (Commercial Taxes), Trichy all other Joint Commissioners sent NIL report in respect of their Division. The Joint Commissioner (Commercial Taxes), Trichy sent a report for waiver of tax of Rs.23,54,141/- in respect of Tvl. Subhadra Alloys Private Limited, Mathur as follows:-

Details	Taxable Turnover	Tax due @ 4%	Tax assessed @ 10%	Difference
1 <sup>st</sup> sale of rough iron castings treated as machinery parts	Rs.2,21,04,722/-	Rs.8,84,189/-	Rs.22,10,472/-	Rs.13,26,283/-
Radiographic charges on rough iron castings for the period upto January 1993	Rs.16,43,726/-	Rs.65,749/-	Rs.1,64,373/-	Rs.98,624/-
Radiographic charges collected on such rough iron castings for the period February and March 1993	Rs.3,96,593/-	Rs.15,864/-	Rs.39,659/-	Rs.23,795/-
Total	Rs.2,41,45,041/-	Rs.9,65,802/-	Rs.24,14,504/-	Rs.14,48,702/-
Surcharge @ 15%			Rs.3,62,176/-	Rs.3,62,176/-
Additional sales tax levied @ 2.25% on the sales turnover			Rs.5,43,263/-	Rs.5,43,263/-
Total				Rs.23,54,141/-

4. Based on the report of the Joint Commissioner (Commercial Taxes), Trichy, the Principal Secretary/Commissioner of Commercial Taxes sent proposal to Government for waiver of Rs.23,54,141/- (Rupees twenty three lakh fifty four thousand one hundred and forty one only) being the differential rate of tax (10% - 4% = 6%) of Rs.14,48,702/, Surcharge Rs.3,62,176/- and Additional Sales Tax of Rs.5,43,263/- payable by Tvl. Subhadra Alloys (P) Ltd. for the assessment year 1992-1993.

5. In accordance with direction of the Government in the reference third read above, the Additional Chief Secretary/ Commissioner of Commercial Taxes has placed the following waiver proposal before the waiver committee constituted vide G.O.(D).No.428, Commercial Taxes and Registration (D2) Department, dated 25.08.2006 for its decision in his letter fourth read above.

"Considering the fact that Tvl. Subhadra Alloys Private Limited, Mathur have collected tax @ 4% only in respect of the sale turnover of Rs.2,21,04,722/- being the first sale of rough iron castings and they have not collected any tax on Radiographic charges of Rs.20,40,321/-, the proposal for waiver of an amount of Rs.23,54,141/- (Rupees twenty three lakh fifty four thousand one hundred and forty one only) being the differential rate of tax (10% - 4% = 6%) of Rs.14,48,702/-, Surcharge Rs.3,62,176/- and Additional Sales Tax Rs.5,43,263/- payable by Tvl. Subhadra Alloys Private Limited, Mathur for the assessment year 1992-1993 is placed before the Waiver Committee for its decision".



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He has further stated that the Waiver Committee has agreed to the above proposal. He has therefore requested the Government to issue orders in this regard.

6. The Government after careful examination, have decided to accept the decision of the waiver committee and hereby waive an amount of Rs.23,54,141/- (Rupees Twenty three lakh fifty four thousand one hundred and forty one only) being the differential rate of tax (10% - 4% = 6%) of Rs.14,48,702/-, Surcharge Rs.3,62,176/- and Additional Sales Tax Rs.5,43,263/- payable by Tvl. Subhadra Alloys Private Limited, Mathur under the Tamil Nadu General Sales Tax Act, 1959 for the assessment year 1992-1993 under item 7 of Appendix 21 of Chapter – II of the Tamil Nadu Financial Code Volume – II.

7. This order issues with the concurrence of the Finance department vide its U.O.No.53182/Revenue/2016, dated 8.12.2016.

(By Order of the Governor)

Dr C. CHANDRAMOULI  
ADDITIONAL CHIEF SECRETARY (FAC)

To

✓ The Additional Chief Secretary/ Commissioner of Commercial Taxes, Chennai – 5  
The Joint Commissioner concerned,  
(through the Additional Chief Secretary/ Commissioner of Commercial Taxes,  
Chennai – 5)

The Principal Accountant General, Chennai – 8

Copy to:

The Finance (Revenue) Department, Chennai – 9  
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//Forwarded by Order//

  
SECTION OFFICER 31.3.17

30/3/17