

12/06/17
Mr. Adc (10/12)

ABSTRACT

Commercial Taxes Department – Waiver – Waiver of tax, surcharge, additional sales tax and penalty payable on the sale of Fried Gram for the period from 23.08.1994 to 10.01.1995 in respect of 31 dealers of Madurai and Salem Divisions under the Tamil Nadu General Sales Tax Act, 1959– Orders – Issued.

Commercial Taxes and Registration (D2) Department

G.O.(Ms)No.48

17383

Dated: 08.06.2017

ஹேவிளம்பி வைகாசி-25

திருவள்ளூர் ஆண்டு 2048

Read:

1. Orders of the Hon'ble Supreme Court of India, dated 23.08.1994
2. The Special Commissioner / Commissioner of Commercial Taxes Ir.No.AC-VI/1132/1995, dated 10.1.1995
3. The Special Commissioner / Commissioner of Commercial Taxes Circular ref. No.AC-VI/3663/1995, dated 6.2.1995
4. The Principal Secretary/ Commissioner of Commercial Taxes letter DC-II/28374/1995, dated 26.02.2016
5. Government letter No.2386/D2/16-1, Commercial Taxes and Registration (D2)) Department, dated 16.03.2016
6. The Additional Chief Secretary/ Commissioner of Commercial Taxes letter Drafting Cell/38374/1995, dated 01.08.2016

ORDER:

Originally, Fried Gram was treated as declared goods by which a single point of tax at 4% only is leviable at the point of first sale in the State as per entry 6-A of the Second Schedule to the Tamil Nadu General Sales Tax Act, 1959.

2. In the case of Tvl. Gopur m Gram Mills Co., the Hon'ble Supreme Court of India in its judgment first read above held that the Fried Gram is not a declared good. Thus the commodity is taxable at multipoint, i.e. levy of tax at every point of sale. In accordance with the said direction of the Supreme Court of India, the Special Commissioner and Commissioner of Commercial Taxes issued a clarification in the reference second read above. In the reference third read above the Special Commissioner and Commissioner of Commercial Taxes directed all the assessing officers to give effect to the above orders of the Supreme Court with effect from the date of its judgment i.e., 23.08.1994. Some of the dealer Associations represented that the order of the

Supreme Court of India was made known to them only on 10.01.1995 and they requested to waive tax for the period upto 10.01.1995. After examining their representation, the Commissioner of Commercial Taxes, directed the Joint Commissioners to send a report.

3. As instructed by the Special Commissioner/Commissioner of Commercial Taxes, except Madurai and Salem, all other Joint Commissioners sent a "Nil" report. The Joint Commissioners of Madurai and Salem reported that the following 31 dealers had not collected tax on the sale of fried gram for the period from 23.08.1994 to 10.01.1995:-

Division	Name of the dealer (Tvl.)	Tax	Sur-charge	Addl. Sales Tax	Penalty	Total (Rs.)
Madurai	1. Rajamalar Traders	6926	1039	--	--	7965
	2. Maruthi Trading Co.	4275	641	--	--	4916
	3. Sree Chandra Traders	17878	2682	8939	29499	58998
	4. Rice Land	173062	49428	167530	585030	975050
	5. Sri Vijay Industries	324013	51389	228386	905694	1509482
	6. V.P. Selvaraj	74408	14670	41103	195272	325453
	7. M.K.A. Chinnasamy Nadar & Sons	168980	43386	152740	365106	730212
	8. Kaleeswari Industries	354657	65736	264297	684690	1369380
	9. Sri Kaleeswari Enterprises	--	--	10510	--	10510
	10. Veilumuthu & Co.	16253	2438	--	28036	46727
	11. Ashok Fried Gram Mill	300757	47474	210998	838677	1397906
Salem	12. Super Fried Gram Mill	131190	19679	65595	--	216464
	13. Siva Prakash	35424	5314	23616	--	64354
	14. Sri Padmavathy Fried Gram Mills	--	--	56963	--	56963
	15. Arasan Fried Gram Mill	--	5088	263059	--	268147
	16. A.Balasubramaniam & Co.	8637	1296	2047	--	11980
	17. Vinayaka Agencies	--	--	70257	--	70257
	18. Jaganathan	--	--	52354	--	52354
	19. Soundararaj Brothers	--	42734	295084	--	337818
	20. C.Muthusamy & Sons	62041	9306	83545	--	154892

Division	Name of the dealer (Tvl.)	Tax	Sur-charge	Addl. Sales Tax	Penalty	Total (Rs.)
	21. Maruthu Trading Co.	93923	14088	102115	--	210126
	22. Kamadhenu Fried Gram	151764	22765	158043	--	332572
	23. Golden Fried Gram	131981	19797	72756	--	224534
	24. Arumugam Chettiar & Sons	292091	--	--	--	292091
	25. Balaji Dhall Tidal	71594	--	--	--	71594
	26. Senthil Enterprises	14206	--	--	--	14206
	27. Balaji Trading Company	797094	--	--	--	797094
	28. A.Balasubramaniam & Co.	91971	--	--	--	91971
	29. Nagappan	45312	44304	190331	--	279947
	30. Sri Nanda Gopal & Co.	--	--	129647	--	129647
	31. Sabari Fried Gram	--	--	147342	--	147342
	Total	3368537	463254	2797257	3632004	10261052

4. Based on the report of the Joint Commissioners(Commercial Taxes), Madurai and Salem, the Principal Secretary/Commissioner of Commercial Taxes in the reference fourth read above sent proposal for waiver of an amount of Rs.1,02,61,052/- being tax, surcharge, additional sales tax and penalty payable under the Tamil Nadu General Sales Tax Act, 1959 on the sale of Fried Gram for the period from 23.08.1994 to 10.01.1995 in respect of 31 dealers of Madurai and Salem Divisions as follows:-

Tax	- Rs.33,68,537.00
Surcharge	- Rs. 4,63,254.00
Additional Sales Tax	- Rs.27,97,257.00
Penalty	- Rs. 36,32,004.00
Total	Rs.1,02,61,052.00

5. In the Government letter fifth read above, the Principal Secretary/Commissioner of Commercial Taxes was requested to place the above 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.

6. Accordingly, the Additional Chief Secretary/ Commissioner of Commercial Taxes in the reference sixth read above has stated that the above said waiver proposal has been placed before the "Waiver Committee", for its decision and the Committee has agreed to the proposal. He has therefore, requested the Government to issue waiver orders.

7. The Government after careful examination, have decided to accept the decision of the "Waiver Committee", and hereby waive a sum of Rs.1,02,61,052/- (Rupees One crore two lakh sixty one thousand and fifty two only) being tax – Rs.33,68,537/-, surcharge - Rs.4,63,254/-, additional sales tax – Rs.27,97,257/- and penalty Rs.36,32,004/- payable by 31 dealers of Madurai and Salem Divisions on the sale of fried gram for the period from 23.08.1994 to 10.01.1995 under the Tamil Nadu General Sales Tax Act, 1959, under item 7 of Appendix 21 of the Tamil Nadu Financial Code Volume – II.

8. This order issues with the concurrence of the Finance department vide its U.O.No.53184/Revenue/2017, dated 09.12.2016.

(By Order of the Governor)

Dr C. CHANDRAMOULI
ADDITIONAL CHIEF SECRETARY TO GOVERNMENT(FAC)

To

The Additional Chief Secretary/ Commissioner of Commercial Taxes, Chennai – 5

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

The Principal Accountant General, Chennai – 8

Copy to:

The Chief Minister's office, Chennai-9

The Special Personal Assistant to Minister(Fisheries, Finance, P&AR), Chennai-9

The Special Personal Assistant to Minister(Commercial Taxes), Chennai-9

The Public (SC) Department, Chennai-9


Tvl. Tamil Nadu Chamber of Commerce and Industry, Madurai

Tvl. Erode Varukadalai Urpathiyalar Sangam, Erode

The Finance (Revenue) Department, Chennai – 9

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Forwarded by Order//


SECTION OFFICER
9/6/17