

ABSTRACT

Waiver - Waiver of tax and surcharge on the sale of surgical goods payable under the Tamil Nadu General Sales Tax Act, 1959 by Tvl. Cancer Institute (WIA), Chennai for the year 2003-2004 – Orders – Issued

COMMERCIAL TAXES AND REGISTRATION (D2) DEPARTMENT

G.O.(Ms)No.89

Dated: 02.06.2016

14726

துன்முகி, வைகாசி 20

திருவள்ளூர் ஆண்டு 2047

Read:

1. G.O.(Ps)No.379, Commercial Taxes and Religious Endowment Department, dated 2.5.1985.
2. G.O.(Ms)No.79, Commercial Taxes and Registration Department, dated 26.8.2008.
3. The Principal Secretary/Commissioner of Commercial Taxes letter No. DC-II/64822/2005 dated 2.9.2013.
4. Government letter No.11598/D2/2013-4, Commercial Taxes and Registration (D2) Department, dated 20.03.2014.
5. Minutes of the waiver Committee ref.AC-II/64822/2005.
6. The Principal Secretary/Commissioner of Commercial Taxes letter No. DC-II/64822/2005 dated 5.9.2014.

ORDER:

In the reference first read above, Government issued notification granting exemption from levy of sales tax on the sale of scientific equipment, drugs, stationery, etc. to the Cancer Institute (WIA), Chennai by amending the sub-Sec.(1) and (3) of Section 17 of Tamil Nadu General Sales Tax Act, 1959.

2. Since the item 'Surgical goods' was not included in the list of goods exempted in the said notification, the Assessing officer levied tax on the sale of 'Surgical goods' @ 10% besides 5% surcharge under entry 19(iii) of part C of the Schedule of the Tamil Nadu General Sales Tax Act, 1959.

3. Tvl.Cancer Institute, Adyar in their letter dated 9.11.2005 represented that they effected purchase of surgical goods from the dealers viz. Tvl.Esskay Agencies and Tvl.Advance Surgical Goods Pvt. Ltd.. As they were exempted from sales tax on such purchases as per the said Government Order, they did not pay sales tax. Hence, Tvl.Cancer Institute requested for waiver of tax and surcharge. In this connection, the Deputy Commissioner (Commercial Taxes) Chennai (East) Division opined that if the

Government wishes to consider their request, the same may be considered on merits in the extent of the public in general and the cancer patients in the State in particular.

4. Accordingly, the Principal Secretary/Commissioner of Commercial Taxes sent waiver proposal to Government in respect of the following dealers for the assessment year 2003-04 under the Tamil Nadu General Sales Tax Act, 1959 :-

(Amount in Rupees)

Sl. No.	Dealer's Name	Turnover	Tax at 10%	Surcharge at 5%	Total
1.	Advance Surgical Instruments Ltd.,	12,25,678/-	1,22,568/-	6,128/-	1,28,696/-
2.	Esskay Agency	44,59,483/-	4,45,948/-	22,292/-	4,68,240/-
	Total	56,85,161/-	5,68,516/-	2,84,290/-	5,96,936/-

5. The above proposal was placed before the Second Waiver Committee on 13.8.2007 for its decision and the same is as follows:-

"G.O.(Ps.)No.379, dated 2.5.85, the item "Surgical Goods" are not included in the list of goods for which exemption from tax was granted. Hence, the action of the assessing officer in levying tax on the sales of "surgical goods" at 10% under Entry 19(iii) of Part C of the First Schedule to the TNGST Act is in order in respect of Tvl. Cancer Institute (WIA), Chennai. The amount involved is Rs.5,96,936/-. The decision on this proposal has been deferred, as issue of a consolidated Government order for granting exemption is under consideration."

The Government after careful examination decided to accept the above recommendations of the Waiver Committee.

6. Subsequently, in the Government Order second read above, the Government issued notification with effect from 1.4.2004 granting exemption from payment of tax on surgical goods covered in Scientific Equipments and drugs by Tvl.Cancer Institute, Adyar, Chennai.

7. In the meanwhile, Tvl.Advance Surgical Goods Private Ltd., applied for settlement under the Tamil Nadu Sales Tax (Settlement of Arrears) Act, 2010.

8. Since the sales tax and surcharge levied on Tvl.Cancer Institute was not collected by the seller viz. Tvl.Esskay Agencies, the Principal Secretary/Commissioner of Commercial Taxes in his letter third read above has requested the Government to waive an amount of Rs.7,02,365/-(Tax Rs.4,45,946/-, Surcharge Rs.22,297/- and Penalty Rs.2,34,122/-) for the sales effected to Tvl.Cancer Institute by Tvl. Esskay Agencies for the assessment year 2003-2004 in the interest of the cancer patients.

9. In the reference fourth read above, the Principal Secretary/Commissioner of Commercial Taxes was requested to place the above proposal before the Waiver Committee for its decision.

10. Accordingly, the Principal Secretary/Commissioner of Commercial Taxes has placed the proposal before the waiver committee for its decision as follows in the reference fifth read above and requested to issue waiver orders in his letter sixth read above.

"Considering the fact that the sales tax and surcharge levied on Tvl.Cancer institute was not collected by the seller viz.Tvl.Esskay agencies, the request of the Tvl.Cancer Institute for waiver of an amount of Rs.7,02,365/-(Tax Rs.4,45,946/-, Surcharge Rs.22,297/- and Penalty Rs.2,34,122/-) for the sales effected to Tvl.Cancer Institute to them by Tvl. Esskay Agencies, is placed before the Waiver Committee for its decision."

The Waiver Committee has agreed to the proposal.

11. The Government after careful examination, have decided to accept the recommendation of the waiver committee and hereby waive an amount of Rs.7,02,365/- (Tax Rs.4,45,946/- Surcharge Rs.22,297/- and Penalty Rs.2,34,122/-) (Rupees Seven lakh two thousand three hundred and sixty five only) payable under Tamil Nadu General Sales Tax Act, 1959 on the sales effected to Tvl. Cancer Institute by Tvl.Esskay Agencies for the assessment year 2003 – 2004 in the interest of the Cancer Patients under the power vested under item 7 of Appendix 21 of Chapter-II of the Tamil Nadu Financial Code Volume-II.

12. This order issues with the concurrence of the Finance Department vide its U.O.No.52823/Fin(Rev)/2015 dated 14.1.2016.

(By Order of the Governor)

MD.NASIMUDDIN
PRINCIPAL SECRETARY TO GOVERNMENT (FAC)

To

The Principal Secretary/Commissioner of Commercial Taxes, Chennai – 5

✓The Joint Commissioner concerned

(through the Principal Secretary/Commissioner of Commercial Taxes, Chennai – 5)

The Pay and Account Officer concerned

(through the Principal Secretary/Commissioner of Commercial Taxes, Chennai – 5)

The Principal Accountant General, Chennai – 18

Copy to:


Tvl.Esskay Agencies, No. 334, Mount Road, Narasingapuram Street, Chennai - 2

The Finance (Revenue) Department, Chennai – 9

Stock file/Spare copies.

//Forwarded by Order//


SECTION OFFICER


7/6/16