



ABSTRACT

Value Added Tax Act 2006 – Assessments made under Central Sales Tax Act, 1956 relating to sale of tea in auction centres at Ooty and Coimbatore including Tea Serve – To be reassessed under the Tamil Nadu General Sales Tax Act 1959 – Orders issued.

Commercial Taxes and Registration (B2) Department

G.O. Ms No.12

Dated : 4.2.2008

Read :

From the Special Commissioner and Commissioner of Commercial Taxes letter No.Acts Cell III / 31817 / 2006, dated 17.10.2006.

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ORDER:

The sale of tea at 'tea serve' and other tea auction centres at Ooty and Coimbatore were treated as interstate sales and assessed to tax at 4% under the Central Sales Tax Act, 1956. The Accountant General has viewed that the sales of tea at Tea Serves and other private auction centres at Ooty and Coimbatore are intra state sales (local sales) and have to be assessed under the Tamil Nadu General sales Tax Act, 1959. The Additional Advocate General has also endorsed the views of the Accountant General.

2. The following points were taken into consideration in this regard:-

(a) The intention of the Government is to levy a lower rate of tax on small tea growers selling through 'Tea Serve' and other private tea auction centres at Coonoor and Coimbatore. Hence, on behalf of the Commercial Taxes Department, the additional demands that would arise consequent on the revised stand taken by the Department with reference to the decision reported in (2003) 129 STC 299 (Madras) have to be waived. In the G.O.Ms. No.973 Revenue Department dated 27.5.1967, "Government conveyed that the advantage may no doubt be taken of interpretation of a law by courts so as to retrospectively collect tax upto five years but that if the assessee shows that owing to an earlier departmental or earlier court interpretation, he did not collect, an administrative waiver should be considered". The Government may remit the whole or part of the tax in respect of any period by any dealer, if the dealer had not collected sales tax on the turnover in respect of that period (vide Section 17 (4) and Rule 48-A of Tamil Nadu General Sales Tax Act and Rules).

(b) The Commissioner of Commercial Taxes would be allowed to reopen assessments (wherever not time barred) and reassess the transactions to tax as though they were of the nature of intra-state sales, deduct Central Sales Tax already paid and send proposals to Government for waiver of the balance portion of tax due.

3. The Government after careful consideration, direct the Commissioner of Commercial Taxes to reopen the assessments relating to sale of tea in tea auction centres at Ooty and Coimbatore including Tea Serve made under Central sales Tax Act, 1956 (wherever the assessments are not time barred) and to reassess the transaction to tax under the Tamil Nadu General Sales Tax Act, 1959 as though, they were of the nature of intra-State sales and to deduct Central Sales Tax already paid.

4. The Commissioner of Commercial Taxes is requested to send necessary proposals to Government for Waiver of the balance portion of tax due.

5. This order issues with the concurrence of Finance Department vide its U.O. No.4932/Rev/08 dated 30.1.2008.

(BY ORDER OF THE GOVERNOR)

K. ARULMOZHI,
SECRETARY TO GOVERNMENT.

To

The Commissioner of Commercial Taxes, Chepauk, Chennai-5.

The Accountant General, Chennai-18/35

The Finance Department, Chennai-9.

The Law Department, Chennai-9

The Commercial Taxes and Registration (D) Department, Chennai-9

The Chief Minister's Office, Chennai-9.

The Senior P.A. to Minister (Commercial Taxes), Chennai-9.

The Public (SC) Department, Chennai-9.

// Forwarded / By order //

SECTION OFFICER.