



ABSTRACT

Waiver – waiver of the tax arrears payable by the Government Medical Store Depot, Chennai - Rs.49,32,971/- under the Tamil Nadu General Sales Tax Act, 1959 for the assessment years 1985-86 to 1989-90 and Rs.10,79,874/- under the Central Sales Tax Act, 1956 for the assessment years 1985-86 to 1987-88 - Orders - issued.

Commercial Taxes and Registration (D1) Department

G.O.(2D).No. 174

Dated: 16.11.2011.
Iyypasi, 30
Thiruvalluvur Aandu, 2042.

Read:

1. Order of the High Court of Madras in M.P.1 to 1 of 2009 in W.P. Nos. 13152 to 13159 of 2008, dated 05.11.2009.
2. From the cabinet secretariat, letter No.1/126/ 22-H(S)/ 2009 -LC, dated 01.12.2009.
3. From the Commissioner of Commercial Taxes, Letter No.BD2/46621/2009, dated 23.12.2009.
4. Government Letter No.18142/D1/2009-4, dated 05.02.2010.
5. From the Senior Medical Officer, government Medical Store Depot, Government of India, Letter No.Accts/T7/Sales tax/HPC/2010-11/1661, dated 10.06.2010.
6. From the Commissioner of Commercial Taxes, letter No. Drafting cell-II/6356/2010, dated 20.10.2010.
7. From the Commissioner of Commercial Taxes, Letter No.BD2/46621/2009, dated 22.12.2010.
8. Government Letter No.18142/D1/2009-9, dated 06.01.2011.
9. From the Commissioner of Commercial Taxes, letter No. Drafting cell-II/6356/2010, dated 04.03.2011.

ORDER:

The Principal secretary/ Commissioner of Commercial Taxes has reported that Tvl. Government Medical Store Depot has collected tax on the sale of drugs and medicines supplied to State Government dispensaries and availed exemption on the supply of medicines to Central Government dispensaries, relying on the letter No.

OA/REV/ST/28-38/63-64/992, dated 30.03.1965 of Accountant General (Audit), Tamil Nadu which stated that sales by Union Government to other Union Government institutions will not amount to sale. The Government of Tamil Nadu in its letter No. 5284 - Commercial Taxes - III - 1/69-1 Revenue Department, dated 29.01.1969 also clarified that Medical Stores Depot was not liable to tax or to get itself registered as a dealer under the Central Sales Tax Act, 1956. Hence, the assessments were made allowing exemption for the transactions between the Depot and other Central Government Institutions. However, assessments for the years 1985-86 to 1989-90 were revised and the exemption allowed was re-assessed to tax for reason that after the incorporation of the definition for "dealer", as per explanation (2) to section 2 (g) of the Tamil Nadu General Sales Tax Act, 1956, the Central Government shall be deemed to be a dealer, when they buy, sell, supply or distribute goods whether or not in the course of business.

2. The Principal secretary/ Commissioner of Commercial Taxes has reported that aggrieved against the revised orders, the Government Medical Store Depot preferred appeals before the Appellate Assistant Commissioner (Commercial Taxes), who confirmed the assessment. Subsequently, further appeal before the Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Chennai was filed. The Tamil Nadu Sales Tax Appellate Tribunal (Additional Bench), Chennai also confirmed the revised assessments made by the Assessing Officer.

3. The Government Medical Store Depot later filed an Original Petition against the recovery notice issued by the Assessing Officer before the Tamil Nadu Taxation Special Tribunal, Chennai, which was subsequently transferred to Hon'ble High Court, Madras. The Hon'ble High Court, Madras in its order in M.P.Nos.1 to 1 of 2009 in W.P. Nos. 13152 to 13159 of 2008, dated 05.11.2009 in the reference first read above, has directed the Cabinet Secretary to Government of India to constitute a High Power Committee consisting of himself, the Chief Secretary of the State and the Secretary of Department of Health, Union of India, the Secretary of Health Department, Government of Tamil Nadu and the Secretary, Commercial Taxes and Registration Department, Government of Tamil Nadu to resolve the dispute.

4. Hence, the Principal Secretary/ Commissioner of Commercial Taxes was requested to cause thorough verification of the records connected to the issue and send necessary proposals to Government.

5. The Principal Secretary and Commissioner of Commercial Taxes in his letter sixth read above has reported to the Government that the Government Medical Store Depot, Chennai had not collected tax on their distribution of drugs and Medicines to Central Government Dispensaries,

and furnished the details of arrears of sales that has to be waived in favour of the Government Medical Store Depot as follows:-

Assessment Years	Act	Total (in Rs)
1985-86 to 1989-90	Tamil Nadu General Sales Tax	49,32,971.00
1985-86 to 1987-88	Central Sales Tax	10,79,874.00
	Total	60,12,845.00

6. The Principal Secretary/ Commissioner of Commercial Taxes was therefore requested to place the proposal before the Waiver Committee consisting of Secretary, Commercial Taxes and Registration Department, Principal Secretary, Finance Department and the Commissioner of Commercial Taxes as members, for its recommendation.

7. The Commissioner of Commercial Taxes has reported in the letter ninth read above that the proposal was placed before the Waiver Committee and that the Committee has agreed to the waiver proposal in respect of Tvl. Government Medical Store Depot for an amount of Rs.49,32,971/- (Rupees forty nine lakhs thirty two thousand nine hundred and seventy one only) under the Tamil Nadu General Sales Tax Act, 1959 for the assessment years 1985-86 to 1989-90 and Rs.10,79,874/- (Rupees ten lakhs seventy nine thousand eight hundred and seventy four only) under the Central Sales Tax Act, 1956 for the assessment years 1985-86 to 1987-88.

8. Government, after careful examination, have decided to accept the recommendation of the waiver committee to waive tax arrears of an amount of Rs.49,32,971/- (Rupees forty nine lakhs thirty two thousand nine hundred and seventy one only) under the Tamil Nadu General Sales Tax Act, 1959 for the assessment years 1985-86 to 1989-90 and Rs.10,79,874/- (Rupees ten lakhs seventy nine thousand eight hundred and seventy four only) under the Central Sales Tax Act, 1956 for the assessment years 1985-86 to 1987-88 payable by the Government Medical Store Depot, Chennai.

9. The Notification annexed to this order will be published in the Tamil Nadu Government Gazette in respect of waiver under the Tamil Nadu General Sales Tax Act, 1959.

10. In view of non-availability of specific provision in the Central Sales Tax Act, 1956 (Central Act 74 of 1956) to waive the Central Sales Tax, the Government propose to make waiver as a special case, as per the procedure laid down in the Tamil Nadu Financial Code. Accordingly,

an amount of Rs.10,79,874/- (Rupees ten lakhs seventy nine thousand eight hundred and seventy four only) payable by the Government Medical Store Depot, Chennai under the Central Sales Tax Act, 1956 for the assessment years 1985-86 to 1987-88 be waived as a loss of irrevocable money under the power vested under item 7 of Appendix 21 of Chapter-II of the Tamil Nadu Financial Code Volume-II.

11. This order issues with the concurrence of the Finance Department vide its U.O.No.56208/Revenue/2011, dated 14.11.2011.

(By order of the Governor)

Sunil Paliwal,
Secretary to Government.

To

The Principal Secretary/ Commissioner of Commercial Taxes,
Chennai - 5.

The Works Manager,
Government Central Press, Chennai-79.

(for publication of the Notification in the next
issue of the Tamil Nadu Government Gazette)

The Government Medical Store Depot,
37,Naval Hospital Road, Periyamet, Chennai-3.

The Additional Secretary & Director General (CGHS),
Government of India, Ministry of Health & Family Welfare Nirman
Bhavan, New Delhi-110108.

The Deputy Secretary, Cabinet Secretariat, Room No.228,
IInd Floor, Sardar patel Bhawan, New Delhi-110001.

The Principal Accountant General, Chennai - 18.

The Commercial Taxes and Registration (D1) Department,
Chennai - 9. (for taking action to place it on the
Table of the house).

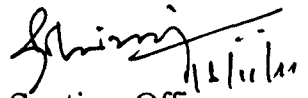
Copy to:

The Finance (Revenue) Department, Chennai - 9.

The Law Department, Chennai - 9.

Stock file/Spare copies.

//Forwarded by Order//


Section Officer
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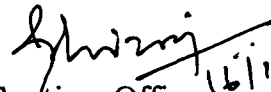
THE ANNEXURE

NOTIFICATION

In exercise of the powers conferred by section 31 readwith section 38 of the Tamil Nadu Value Added Tax Act, 2006 (Tamil Nadu Act 32 of 2006), the Governor of Tamil Nadu hereby remits a sum of Rs.49,32,971/- (Rupees forty nine lakhs thirty two thousand nine hundred and seventy one only) being the tax arrears payable on the turnover relating to supply of drugs and medicines made by Tvl. Government Medical Store Depot, Chennai to Central Government Hospitals and Institutions in respect of the assessment years 1985-86 to 1989-90 under the said Act.

Sunil Paliwal,
Secretary to Government.

//True Copy//


Section Officer. 16/11/11
16/11/11