

Circular No.9/2013
Act Cell-III/22237/2013

Office of the Commissioner of
Commercial Taxes,
Chepauk, Chennai – 600 005.

Dated: 24.07.2013

CIRCULAR

Sub: TNVAT Act, 2006 – Zero rate sale – Eligibility
criteria – Instructions issued – Regarding.

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It has come to the notice of the Commissioner of Commercial Taxes that there is lack of clarity with reference to persons or dealers who are eligible to enjoy the benefits of zero-rating.

Section 18 of TNVAT Act provides for zero-rating and the related procedures for claiming refund or adjustment of ITC in respect of tax paid on the purchase of goods specified in the First Schedule.

The Department is consistently taking a view that benefits of zero-rating are available only to units located in SEZ as provided under TNVAT Act. It is to be mentioned that there is no specific provision for zero-rating the sales of contractors of Developer or Co-developer of SEZ under the TNVAT Act, 2006. Further, sale of goods, involved in the execution of works contract, to any registered dealer located in SEZ in the State is not zero-rate sale, as those goods are not exported as such or consumed or used in the manufacture of other goods that are exported as required under Section 18(2) of the TNVAT Act, 2006. The transactions in the nature of works contract are therefore liable to be taxed at the rates specified in the First Schedule to TNVAT Act, 2006 whether undertaken by contractor or sub-contractor and the payment is subjected to TDS.

It is also to be mentioned that exemption notifications are issued by the Government on the sale of any goods for use in execution of projects by main or sub-contractors of any dealers who have entered into agreement directly or indirectly with certain SEZ developers in Tamil Nadu like Nokia India Private Limited, Cheyyar SEZ Developers Private Limited and Foxconn India Developer Private Limited based on the commitment given in the MoU signed with these companies on case to case basis only. Therefore, Government are vested with powers to grant exemption to a person on case to case base only.

Therefore, it is made clear that zero-rating is applicable as provided under Section 18 of TNVAT Act and the benefits of zero-rating are not extended to any other categories of dealers or transactions unless Government issues order to that effect.

This circular cannot be made use of for legal interpretation of the provisions of law, as it is clarificatory in nature.

Sd/- Dr. K. Manivasan
Commissioner of Commercial Taxes

// forwarded by order//

Commercial Taxes Officer

To

1. All the Joint Commissioners (CT) (Territorial including LTU, Enforcement, ISIC & MoU Cell)
2. All Deputy Commissioners (Territorial, Enforcement & MoU Cell)
3. All the Head of the Assessment Circles.
4. All Checkpost Officers.

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2. Joint Commissioner (Admn), O/o the Commissioner of Commercial Taxes, Chepauk, Chennai - 5.
3. All the Joint Commissioners (CT), Deputy Commissioners(CT) & Assistant Commissioners (CT) in the O/o the Commissioner of Commercial Taxes, Chepauk, Chennai - 5.
4. The Joint Commissioner (Computer Systems) Chennai - 6 for uploading in the intranet and internet websites.
5. The Director, Commercial Taxes Staff Training Institute, Chennai - 6.
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