

COMMERCIAL TAXES DEPARTMENT

From

Thiru **T.Jacob, I.A.S.**,
Commissioner of Commercial Taxes,
Chepauk,
CHENNAI-600 005.

To

Tvl. Tamilnadu Hotels Association,
4th Floor, Montieth Mansion,
27, Montieth Road, **EGMORE**,
Chennai-600 008.

Lr.No. VAT CELL/ 47472 / 07 A3 (VCC 1372) Dated: 16.11.2007

Sir,

Sub: TNVAT Act 2006 - Rate of Tax Clarification under
TNVAT Act, 2006 Requested - Regarding.

Ref: Lr. Dt. 31.08.2007 from Tvl.Tamilnadu Hotels Association,
Chennai-8.

Tvl. Tamilnadu Hotels Association, Chennai- 8 have requested rate of tax clarification under the TNVAT Act,2006 as follows:-

<u>Question</u>	<u>Answer</u>
<p>The rate of tax clarification issued in Lr.VAT Cell 21797/07 (VCC No.968) dated 1.8.2007 is contradictory to the clarification already issued in Lr. No. VAT Cell/7005/2007 (VCCNo.124) dated 12.3.2007.</p> <p>The process involved in the preparation of food and drinks in hotels and restaurants are similar in nature irrespective of the factor whether they are starred hotels (falling under section 7 (1)(a)) or non star hotels etc., (falling under sections 7 (1)(b) and 8(1). The Government have taken a policy decision to levy higher rate of tax at 12.5% under section 7(1)(a) on star hotels and concessional rate of tax at 2% on non star hotels etc. under section 7(1)(b). Compounding facility is made available u/s 8(1) on smaller establishments. Even though there is variation in the rates of tax, preparation of food and drinks in all the three categories of establishments fall well within the definition of "manufacture" as contained in sub-section 27 of section 2 of the TNVAT Act, 2006.</p>	<p>Both Hotels which Pay tax under Composition scheme and under Sec. 7(1)(b) are eligible to purchase fuel gas at 4% against certificate. But they are not eligible for Input Tax Credit.</p>

<p>Nowhere in the Act has it been stipulated that concessional rate of tax on input materials is not available to hotels, restaurants etc. falling under section 7(1)(b) and 8(1). The only restriction is that such ordinary hotels, restaurants etc. are barred from availing input tax credit vide section 7(2) of the Act.</p>	
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<p>We request that the clarification issued in Lr. VAT CELL/ 21797/07 (VCCNo.968) dated 1.8.2007 may kindly be revised in accordance with the law.</p>	
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The clarification already issued in VCC 968 (VAT CELL NO.21797/07) Dated 1.8.2007 in this regard is hereby cancelled with effect from the date of issue.

Sd/-- G.Shanmugam,
For Commissioner of Commercial Taxes

Copy to:
The Secretary,
Commercial Taxes and Registration Department,
Chennai-9

Commercial Tax Officer (VAT)