

**GOVERNMENT OF TAMIL NADU
COMMERCIAL TAXES DEPARTMENT**

**PROCEEDINGS OF THE
AUTHORITY FOR CLARIFICATION AND ADVANCE RULING
(Under Section 48-A (4) of TNVAT Act, 2006)**

**Present: 1. Dr. K. Manivasan, I.A.S.,
Commissioner of Commercial Taxes
2. Thiru. R. Chandramohan, M.A.,
Additional Commissioner (PR)
3. Thiru. B. Gnanasekar, M.A.,
Additional Commissioner (RP)**

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D.Dis.Acts Cell II/21215/2012

Dated 26.10.2012

- Ref:
1. Review application filed by Tvl Aathees Hard Flooring, 5-5/132-3, Thanichiyam Main Road, Gandhigramam, Kallanai Allanganallur, dated Nil.
 2. Proceedings of the Authority for Clarification and Advance Ruling in A.C.A.A.R.20 / 2011-12 Dated 30.03.2012.

REVIEW ORDER

The Authority for Clarification and Advance Ruling in its order in A.C.A.A.R 20/ 2011-12, Dated 30.03.2012 had clarified that "the request of the applicant was not complied with as it is not in conformity with the provisions contained in Section 48-A of the TNVAT Act, 2006, since clarification was not sought for any particular commodity".

2. Aggrieved against the said clarification, the dealer has filed an application under Section 48-A (4) before the authority to review the clarification given earlier with a request for a personal hearing.

3. The issue has been examined in detail with reference to the details furnished by the dealer and the provisions of the Act and Rules.

4. Section 48-A of the Tamil Nadu Value Added Tax Act, 2006, provides for clarification on any point concerning the rate of tax. The request of the dealer was rejected for the reason that clarification was not sought for rate of tax on any commodity as provided under Section 48-A of the Act. Prima facie, this application is liable to be rejected. However, the applicant has sought for a personal hearing in the review application.

5. The review application filed by the dealer does not have any additional or such material evidence that can be legally placed before the Authority but not placed earlier or a fact that has been overlooked while passing the proceedings by the Authority to justify the Review Application. In fact, the Review Application has also not referred to any failure on the part of the authority to issue any clarification on a particular commodity. The proviso to Section 48-A (2) of the Act provides that no application shall be rejected without giving the applicant a reasonable opportunity of being heard. The said sub-section also specifically states the circumstances under which a personal hearing is to be given. The following are the circumstances mentioned in the Section:

- (i) if the application is already pending before any appellate or revising authority of the department or Appellate Tribunal or any Court or;
- (ii) relates to an issue which is designed apparently for avoidance of tax.

6. The application filed by the dealer evidently does not fall into the above two category and therefore a personal hearing before rejecting the application does not arise. In the application filed on 26.12.2011, the dealer has sought clarification in Form VV on the following:

“Clarification is not for a particular commodity. But clarification is sought for on the method of assessment adopted by the Assessing Officers for the years 2006-07 to 2010-11”.

Therefore, seeking clarification on a particular commodity relating to rate of tax is patently absent, the application filed by the dealer is ab initio invalid, and applicant is statutorily forbidden to file such application under Section 48-A. Therefore, the authority has correctly decided that the application does not merit any consideration as also a personal hearing since

application, prima facie, cannot be entertained as per the provisions of Section 48-A.

7. Accordingly, the review application is not capable of consideration and rejected.

Sd/- R. Chandramohan Sd/- B. Gnanasekaran Sd/- Dr.K. Manivasan
Additional Commissioner (PR) Additional Commissioner (RP) Commissioner of Commercial Taxes

To

Tvl. Aathees Hard Flooring,
5-5/132-3, Thanichiyam Main Road,
Gandhigramam,
Kallanai,
Allanganallur

Copy to:

The Assistant Commissioner (CT)
Thirumangalam Assessment Circle.
The Joint Commissioner (CT)
Trichy Division.
The Joint Commissioner (CS) to host in the Department Website
The Secretary to Government, Commercial Taxes & Registration Department,
Chennai - 9.
All Joint Commissioners (CT) including Enforcement, LTU, MOU and ISIC
All Deputy Commissioners (CT), Territorial, Assessment and Enforcement
All Head of Offices (Assessment)
The State Representative, Sales Tax Appellate Tribunal, Chennai - 104.
The Addl. State Representative, (AB) Chennai, Madurai and Coimbatore
The Director, CTSTI, Greams Road, Chennai - 6.
The Executive Officer, Traders Welfare Board, Chennai - 5.
The Accountant General (Audit)-II, No.44, Greams Road, Chennai - 6.
The Additional Commissioners, Deputy Commissioners, Assistant Commissioners,
Commercial Tax Officers in CCT's Office
Personal Clerk to the CCT.
Stock File3 / Act Cell II / Spare - 5.

// forwarded by order //


1/11/12
Commercial Tax Officer.