

**GOVERNMENT OF TAMIL NADU
COMMERCIAL TAXES DEPARTMENT**

**PROCEEDINGS OF THE
AUTHORITY FOR CLARIFICATION AND ADVANCE RULING**
(Under Section 48-A 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.E. Rathinansamy, M.Sc., B.L.,
Additional Commissioner (RP) (FAC)**

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Act Cell-II/37391/2012
(A.C.A.A.R.44/12-13)

Dated 20.02.2013

- Ref: 1. Review application filed by Tvl.Resolute Restaurant Private Limited, No.1A, Jhaver Plaza, 8th floor, Nungambakkam High Road, Chennai – 600 034.
2. Proceedings of the Authority for Clarification and Advance Ruling in A.C.A.A.R.44/2012-13, dated 25.10.2012

REVIEW ORDER:

The Authority for clarification and Advance Ruling in its order A.C.A.A.R.44/2012-13, dated 25.10.2012 had clarified that branded finished food items sold by the dealers are taxable at 14.5% under Entry 69 of Part C of the First Schedule.

2. Aggrieved against the said clarification, the dealer has filed an application before the Authority under Section 48-A(4) to review if clarification given earlier that branded finished food items are taxable at 14.5% under Entry 69 of Part C of the First Schedule.

3. In response to the notice issued on 22.01.2013 for a personal appearance, the dealer appeared in person on 05.02.2013 and put forth his contentions. 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. The Authority had considered the issue earlier and clarification was given to the effect that branded finished food items have not been specified in the Schedules to TNVAT Act and considering that the said food items will be sold under a brand name "BBQ chicken", it was clarified that branded finished food items are taxable at 14.5% under Entry 69 of Part C of the First Schedule.

5. It was stated by the dealer that the food items sold by them are not branded and also not registered under any trade mark or license or merchandise Act or patent and that the expression "BBQ chicken" is an abbreviation of "Best of Best Quality" and made a plea that the food sold in their outlet are only unbranded food items and charging 2% tax on the sales.

6. The clarification given earlier therefore was re-examined in the light of the above observations. It is seen from the details furnished by the dealer that the place of business of the dealer was visited by the Deputy Commercial Tax Officer, Valluvar Kottam Assessment Circle on 03.08.2012 for certain verification. At the time of verification the Chief Financial Officer, Thiru.R.Balasubramanian had deposed before the Deputy Commercial Tax Officer that they are charging 2% tax on the foods supplied by them viz., grilled chicken, pizza, burger, fish item etc., and their food items have not been registered under Trade and Merchandise Mark Act. It was also further stated by them that they do not have any intention to register the name under the TMM & Act.

7. The Authority, reviewed the issue in depth. The earlier clarification was given with reference to their mention about the brand name "BBQ chicken" given in the letter accompanying the application. However, as no personal hearing was sought, clarification was given based on the specific mention of the expression brand name "BBQ chicken" and clarification was given to that branded food items are taxable at 14.5% under Entry 69 of Part C of the First Schedule.

8. The Authority after reviewing the clarification already issued and the details furnished by the dealer at the time of personal hearing decides that the dealers are selling only unbranded food items which are taxable at the reduced rate of 2% as per the provisions contained under Section 7(1)(b) of the TNVAT Act.

9. The clarification issued in A.C.A.A.R.44/2012-13, dated 25.10.2012 is modified to the extent as indicated in para 8.

Sd/- R.Chandramohan Additional Commissioner (PR) Sd/-E. Rathinasamy Additional Commissioner(RP)(FAC) Sd/- K. Manivasan Commissioner of Commercial Taxes

To
Tvl Resolute Restaurants Private Limited,
No.1A, Jhaver Plaza, 8th Floor,
Nungambakkam High Road,
Chennai 600 034

Copy to:

The Assistant Commissioner (CT)
Valluvar Kottam Assessment Circle.

The Joint Commissioner (CT)
Chennai (Central) Division

The Joint Commissioner (CS)
To host in the Department Website

Government, Commercial Taxes & Registration Department,
Secretariat, 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//


26/2/13
Commercial Tax Officer.