

**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. Rathinasamy, M.Sc., B.L.,
Additional Commissioner (RP) (FAC)**

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A.C.A.A.R 79/ 2012-13

Dated 20.02.2013

- Ref: 1. Application of Tvl.Elite Retail Ventures India LLP No.18/35-4, SP Complex, Denkanikotta Main Road, Shanthi Nagar, Hosur, dated NIL.
2. CCT Letter in Act Cell-II/36715/2012, dated 22.01.2013.

Tvl. Elite Retail Ventures India LLP No.18/35-4, SP Complex, Denkanikotta Main Road, Shanthi Nagar, Hosur, (TIN: 33583366788) have filed an application and sought clarification under Section 48-A of the TNVAT Act, 2006 read with Rule 12-A of the TNVAT Rules, 2007.

2. The clarification was sought on the following in column 4 of Form V V:

“Bakery products -Cakes”.

3. The dealers have stated that they are purchasing bakery products from Tvl. Elite Naturals Private Limited, Hosur and sell products such as cakes, puffs to the customers and the shop is named as “Qbake” and the name “Qbake” is pending registration with Trade Mark authorities as a word mark and label mark. It was also stated that the bakery products are sold to the customers at the shop itself for consumption or

take away to customers packed in small boxes containing the Trade Mark "Qbake" printed on such boxes and in certain other cases bulk sales are also made in containers without any specific name printed on the containers. It was further stated by them that the bakery products sold in the shop cannot be treated as "bakery products sold with brand name" as only the name of the bakery shop "Qbake" is pending registration with the trade mark authorities and in such circumstances, they have sought clarification on the applicable tax rate on the different nature of sale of bakery products effected by them.

4. The dealers were given personal hearing on 05.02.2013 and Thiru.M.Harisudhan, Authorized Representative appeared and reiterated the contentions already given in the application and filed written submissions also.

5. The issue has been examined in detail with reference to the provisions of the TNVAT Act and Rules and clarification is given as under:

6. Section 48-A of the TNVAT Act, 2006 provides for clarification on any point concerning rate of tax.

7. The dealer has sought clarification on **Bakery products - Cakes**. The applicable rate of tax in respect of sale made under the following circumstances has been required to be clarified by the dealer.

a) Sale made to the customer at the shop and consumed in the shop.

b) Sale made as take away i.e., when packed in small boxes and sold to the customers.

c) Sale made in bulk from the shop to the customer in containers.

8. The dealer has stated in the application in Form "V V" that clarification is required for **Bakery products - Cakes**. However, it may be seen from the Entries available in the Schedules to the TNVAT Act that different tax rates are applicable in respect of **Bakery products**. Branded Bakery products are taxable at 14.5% whereas unbranded bakery products are taxable at 5%. In addition, bread, bun and rusk whether branded or otherwise are exempted from tax.

9. Section 2(9) of TNVAT Act defines "Branded" as follows:

"Branded" means any goods sold under a name or a Trade Mark registered or pending registration or pending registration of transfer

under the Trade and Merchandise Marks Act, 1958 (Central Act 43 of 1958) or the Trade Marks Act, 1999 (Central Act 47 of 1999)".

10. From the details furnished by the dealer, it is seen that bakery products are sold from the shop having a brand name "Qbake". The bakery products are sold to consumers in the shop itself and also in containers with the Trade Mark "Qbake" printed on it and at times bulk sales to the consumer without any marking in the container. "Branded" as defined under TNVAT Act includes, "any goods sold under a name". Eventhough the shop is registered as "Qbake", the product sold, other than those consumed in the shop itself in containers with the Trade Mark "Qbake" is to be treated as bakery product sold with a trade name as provided under TNVAT Act.

11. The clarification, therefore, is given as below:

Sl. No	Clarification sought	Clarification given
1	Sale is made to the customer at the shop and consumed in the shop.	The bakery products sold and consumed in the shop itself by the customers attract tax at 5% under Entry 8 of Part B of the First Schedule.
2.	Sale is made as take away i.e., when packed in small boxes and sold to the customers.	If the bakery products are sold in containers containing the name "Qbake", such goods are considered as branded goods taxable at 14.5% under Entry 8 of Part C of the First Schedule as the name "Qbake" is pending registration with Trade Mark Authorities as a word mark and label mark.
3.	Sale is made in bulk from the shop to the customer in containers.	(i) If the goods are sold in containers without any name or any marking printed on the containers, such bakery products are taxable at 5% under Entry 8 Part B of the First Schedule.

		(ii) If the goods are sold in containers with any name or any marking printed on the containers, such bakery products are taxable at 14.5% under Entry 8 Part C of the First Schedule as the name "Qbake" is pending registration with Trade Mark Authorities as a word mark and label mark.
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Sd/- R.Chandramohan
Additional Commissioner (PR)

Sd/-E. Rathinasamy
Additional Commissioner(RP)(FAC)

Sd/- K. Manivasan
Commissioner of Commercial Taxes

To

Tvl.Elite Retail Ventures India LLP
No.18/35-4, SP Complex,
Denkannikotta Main Road,
Shanthi Nagar, Hosur

Copy to:

The Assistant Commissioner (CT)
Hosur South Assessment Circle,
Chennai

The Joint Commissioner (CT),
Salem 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.

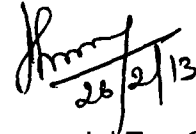
The Additional Commissioners, Deputy Commissioners, Assistant Commissioners,

Commercial Tax Officers in CCT's Office

Personal Clerk to the CCT.

Stock File 3 / Act Cell II / Spare – 5.

//forwarded by order//



Commercial Tax Officer.