GOVERNMENT OF TAMILNADU
COMMERCIAL TAXES DEPARTMENT

PROCEEDINGS OF THE AUTHORITY FOR CLARIFICATION AND ADVANCE RULING

ACAAR No.59/2012-13 Dated:21.09.2015
Acts cell–II/37368/2014

Present: 1.Thiru. K.Rajaraman, I.A.S.,
Principal Secretary / Commissioner of Commercial Taxes.

2.Thiru. R.Vayanaperumal,
Additional Commissioner (CT), (Public Relations)

3.Thiru. K.Mahalingam,
Additional Commissioner (CT), (Revision Petitions)

Ref:
1. Application from Tvl. Supreme Industries Ltd., dated:06.09.2012.
2. Proceedings of the Authority for Clarification on Advance Ruling in No.59/2012-13 (D.Dis.Acts Cell-II/29358/2012), dated:26.10.2012.
3. High Court of Madras Order dated:18.01.2013.
4. Review Proceedings of the Authority for Clarification on Advance Ruling in Acts Cell-II/5448/2013 (ACAAR 59/2012-13), dated:04.10.2013.
5. Re-review application from Tvl. Supreme Industries Ltd., dated:05.12.2014.

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REVIEW ORDER:

Tvl. Supreme Industries Ltd., 68, SIPCOT Industrial Complex, Hosur, preferred an application 1st read above, requesting for clarification regarding the rate of tax on "Chemically cross linked poly ethylene sheet insulation material". It has been clarified by the Authority for Clarification and Advance Ruling, hereinafter to be referred as Advance Ruling Authority vide its proceedings 2nd read above, that "Chemically cross linked poly ethylene sheet insulation material" is taxable at 14.5% as an unclassified item under Entry 69 of Part-C of First Schedule to the TNVAT Act, 2006.

2. Aggrieved on the clarification so issued, the applicant dealers have preferred Writ Petition before the High Court of Madras in W.P.No.77 of 2013, wherein the Hon'ble High court of Madras vide its order, dated: 18.01.2013 has set-aside the order of the Advance Ruling Authority 1st read above and remitted back the issue for fresh consideration, after giving reasonable opportunity to the petitioner dealer in accordance with law. Accordingly, the applicant dealers were given an opportunity for personal hearing on 13.08.2013. Thiru. S.N. Kirubanandham, Advocate and authorized representative of the applicant dealers had appeared and represented before the Advance Ruling Authority for and on behalf of the applicant dealers and filed written submissions towards their claim. Considering the claim as well as the written submissions, it was clarified by the Advance Ruling Authority vide its proceedings, dated: 04.10.2013 that the clarification issued in ACAAR No.59/2012-13, dated: 26.10.2012 does not require any interference, observing that the dealer applicants have filed no additional evidences in support of their claim and therefore, the clarification already issued by the Advance Ruling Authority is valid and holds good.

3. The applicant dealers, on having aggrieved on the review proceedings, once again filed a Re-review petition as 5th read above. Along with the re-review application the applicant dealers have requested for personal hearing. The applicant dealers are provided with an opportunity for personal hearing posted on 10.04.2015 and accordingly they have been informed thro' e-mail. Thiru S.N.Kirubanandam, Advocate and authorized representative have

appeared before the Advance Ruling Authority on 10.04.2015 and represented for and on behalf of the applicant dealers. He has filed written submissions towards their claim that the rate of tax on "Chemically cross linked poly ethylene sheet insulation material" as a kind of plastic goods on the strength of notification in G.O.Ms.No.78, CT&R (B2) Dept., dated:11.07.2011 wherein the rate of tax payable on sale of several commodities by any dealer has been reduced to 5%. One among the goods under Serial No.13 in the list reads as below:

"All plastic goods other than doors, windows, frames, profiles, automobile, industrial and sanitary items".

It is claimed that "Chemically cross linked poly ethylene sheet insulation material" would fall under the said item in Serial No.13 in the list notified in G.O.Ms.No.78, CT&R (B2) Dept., dated: 11.07.2011 and liable to tax at the reduced rate of 5%. The authorized representative has pleaded that the Advance Ruling authority may clarify accordingly.

4. Section 48-A(4), empowers the Advance Ruling authority to review amend or revoke its clarification or advance ruling at any time for good and sufficient cause after giving an opportunity of being heard to the affected parties. In the present case, the clarification already advanced by the Advance Ruling authority vide its order, dated: 26.10.2012 was set aside by the Higher Court of Madras vide its order, dated: 18.01.2013 and remitted back for fresh consideration on merits. Therefore, the proceedings of the Advance Ruling authority, dated: 04.10.2013 is to be construed as a fresh proceedings of clarification. Accordingly, the present review application is admitted and taken for consideration on the materials and written submissions furnished on personal hearing.

5. The claim of the applicant dealers in this review petition is found to be differing from their original claim that the "Chemically cross

linked poly ethylene sheet insulation material" is an insulator; and to be a kind of plastic goods, other than doors, windows, frames, profiles, automobile, industrial and sanitary items as described in Serial No.13 in the list of goods for which the rate of tax has been reduced to 5% vide G.O.Ms.No.78, CT&R (B2) Dept., dated: 11.07.2011. The entry in Serial No.13 in the list under G.O.Ms.No.78, CT&R (B2) Dept., dated: 11.07.2011 excludes the plastic doors, windows, frames and profiles as well as the plastic goods of automobile, industrial and sanitary applications from the applicability of the reduced rate of 5% notified under the said Government Order. The brochure furnished by the applicant dealers in respect of the "Chemically cross linked poly ethylene sheet insulation material" reveals that this commodity is basically made up of poly ethylene sheets, a kind of plastics having industrial applications for thermal insulations. Therefore, the reduced rate provided under G.O.Ms.No.78, CT&R(B2) Dept., dated:11.07.2011 is not applicable to the "Chemically cross linked poly ethylene sheet insulation material".

6. Whereas the entry 69 in Part-B of First Schedule of TNVAT Act, 2006 reads as "insulators". The expression "insulator" does not bear any specific explanation, whether it denotes the electric insulation or thermo insulation. Therefore, it is to be construed that any kind of insulator would fall under this item, whether the insulation material is being used for electric insulation or thermo insulation. The "Chemically cross linked poly ethylene sheet insulation material" are found to be thermal insulation materials as per IS 3346:80 and the test report furnished by Central Building Research Institute, Roorkee. In view of these, the "Chemically cross linked poly ethylene sheet insulation material" is to be construed that it would fall under entry 69 of the description "insulator" in Part-B of First Schedule of TNVAT Act, 2006 liable to tax at 5%.

7. It may therefore be clarified that **"Chemically cross linked poly ethylene sheet insulation material" is taxable at 5% as insulation material falling under entry 69 of Part-B of First Schedule of TNVAT Act, 2006.**

Dated this the Twenty First day of September 2015.

Sd/- R. Vayanaperumal, Additional Commissioner (PR)	Sd/- K. Mahalingam, Additional Commissioner (RP)	Sd/- K. Rajaraman, Principal Secretary/ Commissioner of Commercial Taxes

To
Tvl.Supreme Industries Ltd.,
No.68-Sipcot Industrial Complex,
Hosur.

Copy to:
The Assistant Commissioner (CT)
Hosur North Assessment Circle.

The Joint Commissioner (CT),
Salem Division.

The Joint Commissioner (CS)
To host in the Department Website
The Principal 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/ Acts Cell-II /Spare – 5.

//Forwarded/By order//

Additional Commissioner (PR)