

**GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES
14, BELIAGHATA ROAD, KOLKATA-700015**

Before Ms. Smaraki Mahapatra, I.A.S., Commissioner, Sales Tax, West Bengal

In the matter of :

An application filed under section 102 of West Bengal Value Added Tax Act, 2003, read with rule 202 of the West Bengal Value Added Tax Rules, 2005.

- And -

In the matter of :

Case No: 24X/PRO/VAT/17/308

- And -

In the matter of :

M/s Indo Nissin Foods Private Limited, carrying on business under the same trade name at 1, Transport Depot Road, Kolkata-700088

Present for the applicant: Sri Saktipada Pradhan, Authorised Representative

Date of order: 08.05.2017

This is an application filed by M/s Indo Nissin Foods Private Limited, a Company carrying on business under the same trade name, through Sri Chandraditya Basu, Regional Sales Manager of West Bengal, hereinafter referred to as the applicant, under section 102 of the West Bengal Value Added Tax Act, 2003, hereinafter referred to as the VAT Act. The applicant, who holds VAT Registration No./ TIN 19603850060, has raised question for determination of rate of tax applicable to the sale of 'Chikki'.

The applicant has duly affirmed that the dispute has not arisen out of any order passed by any authority and that he has not filed any application before any Court, Tribunal, Board or any authority under the VAT Act, praying for determination of a dispute of similar nature referred to in this application.

Sri Saktipada Pradhan, authorised representative of the applicant, submitted that the item 'Chikki' is made from Ground Nut, Puffed Rice and Gur/Sugar and is sold under the brand names of 'Papar boat' and Rice Crispy Chikki.

Sri Pradhan produced sample of 'Papar boat' Chikki packed in airtight wrapper showing quantity at 13.5 gm. The constituents of the item are shown as Peanuts (50%), Sugar, Jaggery and Liquid Glucose. He also furnished a sample of 'Rice Crispy Chikki' weighing 50 gm and made from Roasted Peanut, Sugar, Butter, High Maltose Syrup, Puffed Rice and Salt.

Sri Pradhan argued that major constituents of Chikki like jaggery, puffed rice and sugar are exempted from tax and that the item is consumed as sweet hence its sale should be held as exempted from tax under Schedule A of the VAT Act.

The matter is examined. Sales of Jaggery, puffed rice, sugar made in India and sweetmeat are exempted from tax under Schedule A of the West Bengal Value Added Tax Act, 2003, vide entries at serial Nos. 20, 27A, 35A and 36, respectively. Sale of salted peanuts on the other hand is taxable @ 5 % vide entry at serial No. 23A under Part I of Schedule C appended to the Act *ibid*. The item in question that is, 'Chikki' has a distinct identity and is not dealt in at market place as jaggery, puffed rice or sugar. It is also not considered as sweetmeat in common parlance or at market place. If some of the constituents are exempted from tax that alone does not make the finished product exempted from tax. It has to be exempted from tax specifically under the statute.

Since 'Chikki' made from peanuts, sugar, jaggery and liquid glucose or from roasted peanut, sugar, butter, high maltose syrup, puffed rice and salt, is not mentioned either by name or description under Schedules A, B, C or D of the VAT Act, the sale of 'Chikki' is held taxable at the rate of 14.5 %, under section 16(2)(ba) of the West Bengal Value Added Tax Act, 2003, under Schedule CA, as an unspecified item.

Application filed under section 102 in the instant case stands disposed of as above. Send a copy of this order to the applicant for information.

Sd/- 08/05/2017
(Smaraki Mahapatra)
Commissioner,
Sales Tax, West Bengal