

BEFORE THE ADVANCE RULING AUTHORITY, ODISHA, CUTTACK.

A.R. Application No.03 of 2011-12

P R E S E N T :

Mr. S.K. Paty
1st Judicial Member

Mr. G.C. Patnaik
2nd Judicial Member

&

Mr. P.C. Mishra
2nd Accounts Member

M/s. Punj Lloyd Limited,
276, Sukabihar, Bhoi Nagar,
Bhubaneswar-22.

... ..

Appellant.

- V e r s u s -

State of Orissa, represented by the
Commissioner of Sales Tax,
Orissa, Cuttack.

... ..

Respondent.

Appearance :

For the Appellant

...

Mr. S.K. Acharya, Advocate

For the Respondent

...

Mr. R. Rout, S.R.-I

Date of Hearing: 23.03.2012

x x x

Date of Order: 28.03.2012

ORDER

The applicant in this case M/s. Punj Lloyd Ltd. has sought for advance ruling u/s. 17A of Odisha Entry Tax (Amendment Act), 2011 (in short, OET Act) for determination of dispute on payment of Entry Tax on purchases made by it from registered dealers for utilisation in works contract executed for M/s. Indian Oil Corporation Ltd., Paradeep which is exempted from payment of tax as per the terms and conditions in notification No.2680 CTA-117/2002 (Ph.II) dated 13.01.2009 issued by Finance Deptt. Govt. of Orissa.

2. The applicant M/s. Punj Lloyd Ltd., 276- Sukabihar, Bhoi Nagar, Bhubaneswar, TIN-21161111676 (the contractor) is a works contractor under Bhubaneswar II Circle, Bhubaneswar. The said firm has been engaged by

M/s. Indian Oil Corporation, Paradeep Refinery, Paradeep (contractee) for execution of contract and has been executing contract work. As per the agreement, the contractor has to abide by the terms and conditions of the contract awarded by Indian Oil Corporation Ltd., Refinery Division at Paradeep and thereby has to be guided on the tax liability / benefit admissible to it and has signed the agreement with the contractee on 03.12.2010 for an amount of Rs.1123,21,61,051.00.

3. The brief fact amounting to the present application for advance ruling both under the OET Act relates to adjustment of tax with regard to its execution of works contract and supply of material pertaining to the work awarded by the contractee.

4. In response to notice the State-respondent has filed written submission. It has been argued as whether scheduled goods while brought to Paradeep shall not be exempt from imposition of Entry Tax? In the present case as the applicant has to convince the taxing authority with necessary certification from the competent authority of the contractee and in view of the restrictions imposed in the Finance Department Notification mentioned supra on behalf of the State, S.R.-I argued that the applicant is not allowed to avail the exemption under the stipulation in the Finance Department notification are complied.

5. The learned Counsel on behalf of the applicant in his written submission dated 24.03.2012, has mentioned a list of thirteen items i.e. cement, TMT Rod, TMT Bar, angle, RMC, paint, high speed diesel, electrode, electrical items, fire extinguisher, cables, spares and safety items which are being transported into Paradeep to be exempted from payment of Entry Tax. Relying upon the notification of Finance Department dtd.07.06.2004 vide SRO 298/2004, the learned Counsel has contended that necessary Advance Ruling may be granted in favour of the applicant.

6. In this regard, the relevant provisions u/s.17A(1) & (2) of the Odisha Entry Tax (Amendment Act), 2011 may be referred to as mentioned below: -

“(1) Any applicant for Advance Ruling may apply in the prescribed form and manner, to the Advance Ruling Authority for obtaining an Advance Ruling on any disputed question as to whether a particular commodity is a Scheduled goods and if so, the rate of tax thereon.

(2) If, in the opinion of the Advance Ruling Authority, the application does not relate to any disputed question as referred to in sub-section (1) or the application is incomplete or incorrect, the Advance Ruling Authority may, after giving the applicant a reasonable opportunity of being heard, reject the application.”

The provision under sub-section 17A(1), stipulates that the Advance Ruling Authority has to consider on Advance Ruling on the rate of tax of a particular commodity and if the same is a scheduled goods. In sub-section (2) of Section 17A, inter alia, the Advance Ruling Authority if considers that the application does not relate to any disputed question referred to in sub-section (1), it may reject the application for Advance Ruling.

7. In view of the above position of law and the contentions of both the applicant and the State represented by S.R.-I, this forum has to decide whether the application for Advance Ruling is tenable in the eye of law.

8. We have heard the learned counsel for the applicant and Mr. Ranjit Rout, the learned S.R. for the State. Regarding the details of the matter there is no dispute that the applicant in this case is a works contractor registered under the OET Act and executing contract works awarded by M/s. Indian Oil Corporation, Paradeep Refinery, Paradeep. M/s. Indian Oil Corporation is also entitled to exemption of tax as per the Finance Deptt. Notification discussed above. As a matter of fact, the applicant is not entitled for exemption of ET under the relevant Act as it is a contractor executing contract for the contractee M/s. Indian Oil Corporation Ltd., Paradeep. Rather, the latter is entitled for exemption of VAT as per the notification of Finance Deptt. discussed in the preceding paragraphs. Further, in the application for Advance Ruling, the applicant has not raised any specific point

relating to any disputed question relating to a particular commodity and rate of tax thereon as provided in Section 17A(1) of the Odisha Entry Tax (Amendment), 2011.

Therefore, in the case at hand we do not find an issue that can be dealt under the relevant section. Further, in the written notes of argument the learned Counsel has submitted a list of thirteen items on which the point of Advance Ruling on imposition of ET has been sought for, rather than any doubt regarding the rate of tax or confusion if any item is a scheduled goods or not. Further, it needs mention that this fact has also not been disclosed in the memorandum of appeal and thereby the State has been denied the right to counter. That apart, the written notes of argument is furnished on 24.03.2012 i.e. after closure of argument on 23.03.2012 and hence the facts incorporated in such written notes of argument cannot help the applicant at this belated stage. As a whole, we do not find any merit in the present application preferred by the applicant for Advance Ruling.

9. As discussed above, we are of the considered opinion that the application preferred by the applicant is not tenable in the eye of law and the same is rejected as devoid of merit.

Dictated & corrected by me,

Sd/-
(P.C. Mishra)
2nd Accounts Member

Sd/-
(P.C. Mishra)
2nd Accounts Member

I agree,

Sd/-
(S.K. Paty)
1st Judicial Member

I agree,

Sd/-
(G.C. Patnaik)
2nd Judicial Member

Attested as true copy

Computer Stenographer

O/O The C.C.T. (C) Ctr.

Memo No. 16233 /Ct

Dated. 21-09-12

I (IV) 13/12 all officers of Head Office
Copy forwarded to all sub-ordinate offices for information and necessary action.

Memo No. 16234 /Ct

Alex 17.9.2012
Dy. Sate representative.
Dated. 21-09-12

Copy forwarded to the A. C. C. T. (I.T & Policy) for favour of information and necessary action.

o/c
Dy. Sate representative.
Alex 17.9.2012

