

BEFORE THE ADVANCE RULING AUTHORITY : ORISSA SALES
TAX TRIBUNAL, CUTTACK.

✓ Application No. 1 of 2010-11

Present : **Shri G.D. Panda**, 1st Judicial Member,
Dr. A.K. Mishra, 2nd Judicial Member,
&
Shri P.N. Pradhan, Accounts Member-I

M/s. Orissa Forest Development
Corporation Ltd.,
A/84, Kharavela Nagar,
Bhubaneswar.

... Applicant

- Versus -

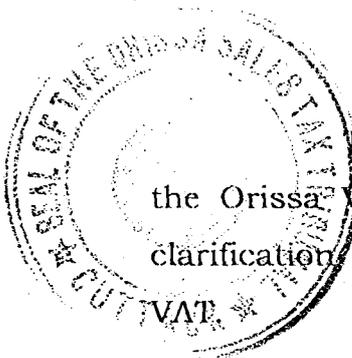
State of Orissa, represented by the
Commissioner of Sales Tax, Orissa.

... Respondent

For the Applicant : Mr. N. Mohanty, Advocate
For the Respondent : Mr. B. Das, S.R.

Date of Hearing : 20.04.2011 * * * Date of Order : 20.04.2011

ORDER

 This is an application filed by a registered TIN dealer under the Orissa Value Added Tax Act, 2004 (in short 'OVAT Act') seeking clarification whether firewood of all varieties is exempted from levy of

2. The averments of the application are that the applicant being a registered TIN dealer under the OVAT Act, is carrying on business of sale of firewood including firewood of casuarina and eucalyptus. As per Sl. No.14 of Schedule-A of the OVAT Act, firewood except casuarina and eucalyptus timber is exempted from VAT. Government of Orissa has

notified as per Notification No. 30957-F dtd. 14.11.1977 that 'firewood' means billets of wood not fit for any purpose other than firewood. The firewood is normally below three feet length and it may be of any type of wood, which is otherwise waste material for use as timber. In some cases, the Sales Tax Authorities are advising the applicant to collect VAT @ 12.5% on sale price of firewood of casuarina and eucalyptus. Since firewood except casuarina and eucalyptus timber is exempted from VAT, a confusion was created whether VAT is to be collected on sale price of firewood of casuarina and eucalyptus. Hence, it be clarified whether firewood of all varieties is exempted from VAT or not.

3. It may not be out of place to mention that the applicant in the prayer portion of the application did not specifically pray to give an advance ruling whether firewood of all varieties is exempted from VAT or not, but stated that "clarification may be issued to treat firewood of all varieties as exempted goods and not to insist for collection of tax by discriminating the ultimate purpose under the law in force" which is defective.

It is to be stated that this is the first application before this authority to give an advance ruling under the OVAT Act. Though the prayer made in the application is defective and not clear for an advance ruling, the averments of the application as a whole reveal that the applicant in its application intended to get an advance ruling whether firewood of all varieties including casuarina and eucalyptus is exempted from VAT ?

4. We heard the learned counsel for the applicant and the learned S.R. for the State. The learned counsel for the applicant contended that as per Sl.No. 14 of Schedule-A of the OVAT Act, firewood except casuarina and eucalyptus timber is exempted from VAT. Firewood is a different commodity from timber. The applicant is collecting VAT @

12.5% on all categories of timber including casuarina and eucalyptus timber. Since casuarina and eucalyptus timbers are excluded from firewood as per Sl.No. 14 of Schedule-A of the OVAT Act, a confusion was created whether casuarina and eucalyptus firewood is exigible to VAT or not. The Sales Tax Authorities are advising to collect VAT @ 12.5% on casuarina and eucalyptus firewood. So, this authority should give an advance ruling whether firewood of all varieties including casuarina and eucalyptus is exempted from VAT ?

In reply to the averments of the applicant and the submission of its learned counsel, the learned S.R. for the revenue submitted that firewood is exempted from VAT except casuarina and eucalyptus timber as per Sl.No.14 of Schedule-A of the OVAT Act. So, firewood of casuarina and eucalyptus is not exempted from VAT.

5. It is needless to say that firewood and timber are two different commodities, though both are wood. In common parlance "firewood" is wood that has been made into pieces, so that it can be burned on a fire. "Timber" is wood, i.e. used for building of house and making furniture. Sometimes, trees that are grown to be used for building of house and making furniture are referred as timber. As per Sl.No. 14 of Schedule-A firewood except casuarina and eucalyptus timber is exempted from VAT. The legislature did not exclude any particular type of firewood from the general category of firewood for levy of VAT. Interestingly, as per the said entry casuarina and eucalyptus timber, which are different commodities from firewood, are excluded from firewood for levy of VAT. So, the exclusion of casuarina and eucalyptus timber as per the said entry will certainly not exclude casuarina and eucalyptus firewood from the genus of firewood for levy of VAT. In other words, when casuarina and eucalyptus wood are sold as timber then the

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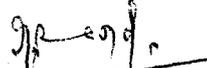
same is liable for VAT, but when the same is sold as firewood, then the same is exempted from VAT.

6. So, for the aforesaid reasons, an advance ruling is hereby given that firewood of all varieties including casuarina and eucalyptus is exempted from VAT under Sl. No.14 of Schedule-A of the OVAT Act.

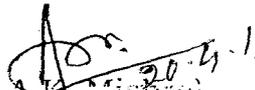
7. The application for advance ruling is accordingly disposed of.

Dictated & Corrected by me,

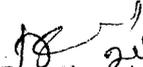

(G.D. Panda)
1st Judicial Member


(G.D. Panda)
1st Judicial Member

I agree,


(Dr. A.K. Mishra)
2nd Judicial Member.

I agree,


(P.N. Pradhan)
Accounts Member-I.