

**BEFORE THE ADVANCE RULLING AUTHORITY:  
ODISHA SLAES TAX TRIBUNAL:CUTTACK.**

**✓ Advance Ruling Application No.01 of 2015-16**

**Present:** --- Shri S.C.Mishra, Chairman  
Miss Sarojini Mohapatra, Judicial Member-I  
&  
Shri A.K.Bhuyan, Accounts Member-I

M/s.Swastik Feed & Fodder,  
Near Ram Mandir,  
At/Po:Kantabanji,  
Dist:Balangir (Orissa)

... Appellant.

- **Versus** -

State of Odisa, represented by the  
Commissioner of Sales Tax, Odisha,  
Cuttack.

... Respondent.

For the Appellant ----- Mr. A.K.Chandulal, Advocate  
For the Respondent ----- Mr. Mark Wright, Advocate.

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Date of Hearing:08.02.2016      \*\*\*      Date of Order:26.02.2016  
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**ORDER**

This is a petition filed under Section-78-A of the Orissa Value Added Tax Act, 2004 ( in short OVAT Act) seeking a clarification as to whether Wheat, Rice, Pulses in damaged condition not being fit for human consumption, not eatable, sold as cattle feed is exempted under the OVAT Act.

2.                    The appellant in the instant case deals in bran, oil cake, cattle feed and manure on wholesale basis effecting purchase from registered as well as unregistered dealers. Cattle feed is exempted under Sl.37 of Section-A of the OVAT Act. While arguing the case before this bench he submitted to know the rate of different commodities as sold in damaged condition.

3.                    Ld. Advocate appearing on behalf of the revenue vehemently challenged it not to be maintainable under Section 78-A of the

OVAT Act as tax rate relates to commodities and not the condition in which sold.

4. Considered the rival contentions, gone through the petition filed under Section-78-A of the OVAT Act. In this context we feel it pertinent to mention the above provision.

**Section 78-A(1) is as under:**

“Any registered dealer may apply in the prescribed form and manner, to the Tribunal for obtaining an advance ruling on any disputed question relating to:

- (i) determination of rate of tax of a particular commodity, or
- (ii) admissibility of input tax credit on a particular transaction of purchase and if admissible, the conditions and restrictions subject to which such input tax credit shall be admissible”

It is clear that the petitioner in the instant case wants a clarification on rate of tax. The commodities are wheat, rice and pulses. Again the rate of tax is sought for when there goods are sold in a damaged condition. The tax rate of the above commodities are prescribed in Schedule B Part-II of the rate chart under OVAT Act which the appellant very well knows. Cattle feed is different from all these goods. Sl. 3 of Schedule-A is as under.

“ Aquatic feed, poultry feed and cattle feed including supplements, concentrates, additives, de-oiled cake, grass, hay and straw and husk of pulses, wheat and groundnut including chokad.”

At the time of hearing he concentrated his argument on rate of tax on wheat, rice and pulses when sold in damaged condition as cattle feed.

So rice, wheat, pulses in any condition cannot be treated as cattle feed for the purposes of rate of tax under OVAT Act. Moreover the above entry clearly speaks hay and straw and husk of pulses, wheat, groundnut to come under the above serial under Schedule-A. The husk/ straw cannot be equated with the pulses, wheat etc. **So** Rice, wheat,

pulses as mentioned cannot be treated as exempted goods whatever be the condition.

5. Accordingly, the petition order Advance Ruling is disposed of.

Dictated and Corrected by me,

*sd/-*

(Shri A.K.Bhuyan)  
Accounts Member-I

*sd/-*

(Shri A.K.Bhuyan)  
Accounts Member-I

I agree,

*sd/-*

(Shri S.C.Mishra)  
Chairman.

I agree,

*sd/-*

(Miss S.Mohapatra)  
Judicial Member-I

*sd/-*