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

✓ **Advance Ruling Application No.08(ET) of 2013-14**

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

M/s.ITI Techno Agro (P) Ltd.
Jagatpur, Cuttack. ... Appellant.

- Versus -

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

For the Appellant ----- Mr. J.J.Pradhan, Advocate
For the Respondent ----- Mr. Mark Wright, Advocate.

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

ORDER

This is a petition filed under Section-17-A of the Orissa Entry Tax Act, 1999. Here the appellant seeks clarification as to whether the agricultural or horticultural appliances manufactured by the dealer are scheduled goods, covered by Entry No.37 of Schedule I under Odisha Entry Tax Act, 1999 and subject to ET @1%.

2. The applicant manufactures and sells agricultural and horticultural appliances. The ld. Counsel appearing on behalf of the appellant referred to Sl.37 Part-I to the Schedule under OET Act and explained that 'i.e.' mentioned there means that is to say. The use of expression 'i.e.' gives an exhaustive definition for agricultural machinery at Sl. No.37 of the Schedule I under the OET Act. Relying on the decision of the Hon'ble Apex Court in case of State of Tamil Nadu Vrs. Pyare Lal Malhotra, AIR 1976 SC 800 he submitted that 'that is ^{to} say' fix the meaning of what is to be explained. The word 'includes' is different from this. Both

the expression 'i.e.' & 'etc' cannot be used. From the expression 'i.e.' it is understood that pump sets, tractor and power tiller, combined harvester and components/accessories thereof are agricultural implements under Sl. No.37, hence subjected to entry tax @1%. It cannot at the same time represent an innumerable list. So the same cannot be boundless. There is no compatibility between 'i.e.' and 'etc'.

3. Ld. Advocate appearing on behalf of the Revenue vehemently challenged the stand of the ld. Counsel for the appellant. He submitted that the statute is very clear. The meaning of 'i.e.' & 'etc' cannot be said to be wrong as i.e. refers to 'specify' i.e. specifically mentioned. By adding 'etc' we find similar goods. Both are used in a just and proper manner. He relied upon the decision of Hon'ble High Court of Orissa in case of Agro Industries Vrs. State of Orissa reported in 90 STC 571.

4. Heard both the parties on the application submitted for advance ruling, gone through the petition and case laws cited. At the outset relevant portions is submitted below for better appreciation:

Section 17A(1) of the OET Act reads as follows:

" 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."

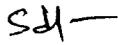
It is mentioned in the statement of fact that the applicant is assessed to tax by the ld. DCST, Cuttack II Circle, But both the parties mentioned that on this disputed point no assessment has been made. Here the question relates to clarification on rate of tax for which this Tribunal is empowered to render advance ruling. Now the Sl.37 Part-I of the Schedule to OET Act is reproduced below:

" Agricultural machinery, i.e. pump sets, tractor and power tiller, combined harvester etc. and components/ accessories thereof"

We do not find any contradiction in the said statutory prescription under Sl.37. It is specifically mentioned as pump sets, tractor, power tiller and combined harvester. At the same time mention of etc. leads us to believe it to refer to the items of like kind. The intention of

the legislature is very much clear. The like items have rightly been thought to be included. So by adding 'etc.' after the word 'harvester', the scope of the entry is broadened upon which like items are judiciously brought under the fold. Legislature does not want the like items to remain out of the ambit of entry tax. So in our considered view items in Annexure-I are scheduled goods attracting levy of tax under OET Act. Annexure-I as attached carries 59 nos. of items, the technical details nature of the product as well as usages of which are not brought to our notice. In view of this no ruling can be passed as to whether all are similar goods coming under Sl.37 mentioned supra. Each individual item be considered in its individual prospective and accordingly be taxed at different rates under OET Act. However, the entry cannot be said to be wrong.

5. The Advance Ruling Application is disposed of accordingly.
Dictated and Corrected by me,

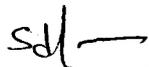

(Shri A.K. Bhuyan)
Accounts Member-I


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

I agree,


(Shri S.C. Mishra)
Chairman.

I agree,


(Miss S. Mohapatra)
Judicial Member-I

