

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

✓ A.R.A. No.13 of 2012-13

**Present:** Sri A.K. Mohapatra, Sri P. Mishra, & Sri A.K. Bhuyan,  
1<sup>st</sup> Judicial Member 2<sup>nd</sup> Judicial Member , Accounts Member-I

M/s. Raghav Tyres Pvt. Ltd.,  
At/P.O.- Sirol, Via.- Kesinga,  
Dist.- Kalahandi.

... Applicant

**- Versus -**

State of Odisha, represented by the  
Commissioner of Sales Tax (O),  
Cuttack.

... Respondent

For the Applicant ... N o n e

For the Respondent ... Mr. M.S. Raman, A.S.C. (C.T.)

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Date of hearing: 16.07.2013 \*\*\*\* Date of order: 16.07.2013  
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**ORDER**

This order arises out of an application filed by the applicant-dealer seeking an advance ruling u/s.17-A read with Rule 23-C of Orissa Entry Tax Act & Rules (in short, the Act and Rules).

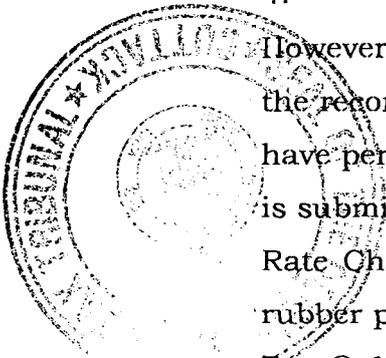
2. The brief facts leading to this application are that the Applicant is a manufacturer of tyres and tubes of cycle and cycle rickshaw and his manufacturing unit is situated at Kesinga, Dist.-Kalahandi in Odisha State. The dealer is a TIN holder bearing No. 1244800445. The dealer- Applicant had earlier filed an advance ruling application bearing No.4 of 2012-13 u/s.78(A)(1)(i) of the Orissa Value Added Tax Act, 2004 ( in short, OVAT Act) for advance ruling. The said

application has been dismissed by the learned Full Bench of this Tribunal by order dated 04.09.2012 holding that the application for advance ruling was received by this Tribunal on dtd.16.05.2012 but the provision of advance ruling under the Act came into force with effect from dtd.01.07.2012, therefore, the applicant filed the application before the Tribunal when there was no provision to adjudicate the same under the Act. After rejection of the aforesaid application by the Full Bench, the applicant has again filed the present application for advance ruling under the OET Act.

3. The applicant has raised the following disputed question for advance ruling.

Whether tyres and tubes of cycle and cycle rickshaw is taxable under entry tax act and if so the rate of tax ?

4. On the date of hearing the applicant was found absent. However, he has submitted one written note by post which is available in the record. We have heard learned Standing Counsel for the Revenue and have perused the petition as well as the written note sent by the dealer. It is submitted by the applicant in the petition that under Orissa Entry Taxa Rate Chart, Schedule 1, Entry No.46, raw rubber, rubber and synthetic rubber products including tyres and tubes, the goods are subject to Entry Tax @ 1%. On the other hand, as per the said schedule-I, entry No.68, vide Finance Department Notification No.24087-CTN-16/2000-F. (SRO No.292/2004), dtd.01.06.2004, cycle, cycle rickshaw and their spare parts are exempted from levy of Entry Tax. According to the applicant, the tyre and tubes of cycle and cycle rickshaw being it's spare parts, come under Entry No.68 and are exempted from tax. According to the applicant, as there is ambiguity regarding tax liability on sale of tyre and tubes of cycle and cycle rickshaw as to whether the said goods would be either come within entry No.46 where the levy of tax is 1% or come under entry No.68 which is exempted from tax. Therefore, the applicant has



prayed to clarify, by way of advance ruling, the aforesaid disputed question.

5. The applicant has stated in the petition that the tyre and tubes of cycle and cycle rickshaw are its spare parts and without the same the manufacture of cycle and cycle rickshaw would not be completed. Therefore, these goods must come within the rate chart of schedule-I, entry No.68 and to be treated as exempted goods from tax liability. On the other hand, learned counsel for the revenue has submitted that in entry No.46, Part-I, Schedule 1 in a clear words, it is stated that rubber products including tyres and tubes are taxable items at the rate of 1%. It is further submitted that since the goods in this schedule are described in clear words, there is no reason to further interpret whether the cycle and cycle rickshaw tyres and tubes are the spare parts of the same. So far the submission of the learned counsel for the applicant that the tyres and tubes are very much necessary to complete the full process of a cycle and cycle rickshaw, the learned counsel for the revenue has submitted that if it was intention of the Legislature to exclude those items from levy of tax, then, the same should have been excluded in entry No.46 of the schedule.

6. The applicant has cited the following case laws in his written note like Goodyear India Ltd. Vrs. C.C.T. Beliaghata and others (2009) 25 VST 607 (WBTT), Mehera Brothers Vrs. Joint Commissioner of Commercial Taxes (1991) 80 STC 233, to support his stand that cycle tyre and cycle rickshaw tyres are the spare parts of cycle and cycle rickshaw. On the other hand, the learned counsel for the Revenue has cited series of citations in support of his stand. In a decision reported in (2001) 123 SETC 39, Lotus Rooflings (P) Ltd. Vrs. State of Karnataka, the Hon'ble Court have held - In the interpretation of entries in a taxing statute, full effect should be given to all the words used therein. If a particular article would fall within a description, by the force of words used, it is impermissible to ignore that description, and denote the article under

another entry, by a process of reasoning. This view of the Hon'ble Court makes it clear that where the "goods" to be taxed are described in clear words, it is not necessary to go further to interpret the words used.

7. After hearing the submission of the Revenue as well as going through the petition and note of submission filed by the applicant, we find that in clear words, it is stated in entry No.46 that the tyre and tubes are to be taxed @ 1%. In such view of the matter, we need no further interpretation, because the words are clear to describe the same.

8. In view of our discussion, we are of the opinion that the tyre and tubes of cycle and cycle rickshaw are covered within the entry No.46 of Part 1, schedule-I of the OET Act and not under entry No.68 of the schedule. Accordingly, the advance ruling petition is disposed of.

Dictated & corrected by me,

Sd/-  
(A.K. Mohapatra)  
1<sup>st</sup> Judicial Member

Sd/-  
(A.K. Mohapatra)  
1<sup>st</sup> Judicial Member

I agree,

Sd/-  
(P. Mishra)  
2<sup>nd</sup> Judicial Member

I agree,

Sd/-  
(A.K. Bhuyan)  
Accounts Member-I

TRUE COPY ATTESTED

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