

GOVERNMENT OF RAJASTHAN
RAJASTHAN TAX BOARD, AJMER

No. RTB/LB/2017

TAX BAR ASSOCIATION

AJMER /JAIPUR/JODHPUR/UDAIPUR

Sub. : Question of facts in the matter of CTO, Anti Evasion, Kota Vs
BGR Energy Systems Ltd.

Appeal No. : 1454/2014 , 1455/2014 & 1456/2014

Dear Sir,

In reference to hearing the matter Larger Bench fixed on Today 07-06-2017, we submit the question of facts involved for arguments and deciding the issue as under :

Facts of the case and question No.1

1. BGR Energy Systems Ltd., Chennai received a purchase order No. RVUN/ACE(TD)XEN(TDM-V)TNKS-1/D.3832 dated 13.10.2008 for off-shore supply from RRVUNL, Jhalawar (Raj.) for their Kali Sindh Project and, in turn, BGR Energy Systems Ltd., Chennai imported the machinery/equipments from outside India through ports located in the State of Gujarat & Maharashtra. Subsequently, BGR Energy Systems Ltd., Chennai has sold the same goods against 2% 'C' form to RRVUNL, declared the turnover and also paid the tax thereon in the relevant states. RRVUNL has issued 'C' form to BGR Energy Systems Ltd. Against the above imported material, RRVUNL has availed the benefit of Customs Duty concession on such imported goods under project import Chapter 98.01 of Customs Tariff.

Q. 1 Whether import of the machinery/equipments by BGR Energy Systems Ltd. and supplied alleged by pursuant to terms of the contract RRVUNL, is liable to tax in the State of Rajasthan ?

Cont.....2

Facts of the case and question No. 2

2. BGR Energy Systems Ltd., Chennai received a purchase order No. RVUN/ACE(TD)XEN(TDM-V)TNKS-1/D.3833 dated 13.10.2008 for on-shore supply from RRVUN, Jhalawar (Raj.)L for their Kali Sindh Project and, in turn, BGR Energy Systems Ltd., Chennai purchased the machinery/equipments in the course of inter-state trade or commerce from different parts of the country. Subsequently, BGR Energy Systems Ltd., Chennai has sold the same goods U/s 6(2) of the CST Act by endorsing the L/R in favour of RRVUNL, Jhalawar (Raj.) and declared the said turnover in the State of Tamil Nadu. BGR Energy Systems Ltd., Chennai has received the 'C' form from RRVUNL, Jhalawar (Raj.) and 'E-I' form from the other dealers and submitted to their Assessing Authority at Chennai.

Q. 2 Whether the alleged transaction of sale of equipment in the hands of BGR Energy Systems liable to tax in the State of Rajasthan ?



Registrar
Rajasthan Tax Board,
Ajmer

GOVERNMENT OF RAJASTHAN
RAJASTHAN TAX BOARD, AJMER

Notice

Dated :

It is notified for information to all concerned- Larger Bench comprising of Hon'ble The Chairman Mr. Khemraj Choudhary, Hon'ble Member Mr. Madan Lal and Hon'ble Member Mr. Natthu Ram will hear the the matter of Assistant Commissioner, Anti-Evasion, Kota V/s BGR Energy Systems Limited Appeal No. 1454/2014, 1455/2014 and 1456/2014 on 29.06.2017 at Rajasthan Tax Board Jaipur for appropriate answer to the following issues :-

(1) BGRESL is a Chennai-based Company specialising in energy and electrical engineering and amongst its various works in the country, it started in the year 2009 the work of setting up a 2×600 Mega Wat Thermal Power Project at village Undaal in tehsil (sub-division) Jhalrapatan in District Jhalawar in eastern Rajasthan, 60 kilometres from Madhya Pradesh. The original layout of this project, also known as the kalisindh Thermal Power Project was Rupees 3,296.665 crores+USD405 Million (\$40.50 Crs), the awarder being a State-owned Company - Rajasthan Rajya Vidyut Utpaadan Nigam Limited (RVUNL), Jaipur. The RRVUNL advertised one NIT and BGR made one bid. Three different Agreements were made : one (no:3832) for off-shore supplied from China, to be supplied @ 2% against C forms, one (no: 3833) for on-shore supplies of Balance of Plant (BOP) to be procured and supplied by BGRESL (Chennai) from amongst an approved list of vendors across the country as inter-state sales vide 6(2) of the CST Act 1956, and the third Agreement (no: 3834) was for Erection, Procurement and Commissioning (EPC) of the Plant at the 1500 Acre site in Jhalra Patan near Jhalawar.

In the facts and circumstances of the case when there was a single NIT where as three agreements were executed, then whether it will be treated as a single works contract or three different works contracts and the effect of executing three different works contracts inspite of single NIT on the issue of tax ?

(2) BGR Energy Systems Ltd., Chennai received a purchase order No. RVUN/ACE(TD)XEN(TDM-V)TNKS-1/D.3832 dated 13.10.2008 for off-shore supply from RRVUNL, Jhalawar (Raj.) for their Kali Sindh Project and, in turn, BGR Energy Systems Ltd., Chennai imported the machinery/equipments from outside India through ports located in the State of Gujarat & Maharashtra.



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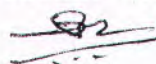
Subsequently, BGR Energy Systems Ltd., Chennai has sold the same goods against 2% 'C' form to RRVUNL, declared the turnover and also paid the tax thereon in the relevant states. RRVUNL has issued 'C' form to BGR Energy Systems Ltd. Against the above imported material, RRVUNL has availed the benefit of Customs Duty concession on such imported goods under project import Chapter 98.01 of Customs Tariff.

Whether import of the machinery/equipments by BGR Energy Systems Ltd. and supplied alleged by pursuant to terms of the contract RRVUNL, is liable to tax in the State of Rajasthan ?

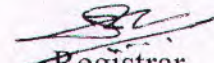
(3) BGR Energy Systems Ltd., Chennai received a purchase order No. RVUN/ACE(TD)XEN(TDM-V)TNKS-1/D.3833 dated 13.10.2008 for on-shore supply from RRVUN, Jhalawar (Raj.)L for their Kali Sindh Project and, in turn, BGR Energy Systems Ltd., Chennai purchased the machinery/equipments in the course of inter-state trade or commerce from different parts of the country. Subsequently, BGR Energy Systems Ltd., Chennai has sold the same goods U/s 6(2) of the CST Act by endorsing the L/R in favour of RRVUNL, Jhalawar (Raj.) and declared the said turnover in the State of Tamil Nadu. BGR Energy Systems Ltd., Chennai has received the 'C' form from RRVUNL, Jhalawar (Raj.) and 'E-I' form from the other dealers and submitted to their Assessing Authority at Chennai.

Whether the alleged transaction of sale of equipments in the hands of BGR Energy Systems liable to tax in the State of Rajasthan and the sale made by BGR Energy System under section 6(2) of CST Act is a subsequent sale in the course of interstate sale or local sale ?

All members of Bar who wants to argue & assist Hon'ble Larger Bench on the above issues may appear and also submit written arguments before Hon'ble Bench.



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Registrar
Rajasthan Tax Board,
Ajmer


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Chairman

1. Notice Board
2. Tax Bar Association Ajmer/Jaipur/Jodhpur/Udaipur
3. All Govt. Advocates in Tax Board Sh. R.K. Ajmer, D.P. Ojha, Anil Pokhara, Jamil Zai,
4. Appellant *श्री. अशोक कुमार शर्मा* Sh. N.K. Baid, Sh. Ramkan Singh
5. Respondents Advocate Sh. M.L. Patodi


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