

**GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES
14, BELIAGHATA ROAD, KOLKATA-700015**

Before Sri Binod Kumar, I.A.S., Commissioner, Sales Tax, West Bengal

In the matter of :

An application filed under section 102 of West Bengal Value Added Tax Act, 2003, read with rule 202 of the West Bengal Value Added Tax Rules, 2005.

- And -

In the matter of :

Case No: 24X/PRO/VAT/16/286

- And -

In the matter of :

M/s CESC Ltd., carrying on business under the same trade name
at CESC House, Chowringhee Square, Kolkata-700001

Present for the applicant: Sri Parag Kothari, Advocate along with, Sri Parthapratim Chakrabarti, Sri Asim Kumar Ray and Sri Biswajit Sarkar, employees and representatives of M/s CESC Ltd.

Sri Adesh Kumar, Additional Commissioner, Commercial Taxes/Sales Tax, and Public Relations Officer (PRO) of the Directorate of Commercial Taxes, was also present to assist in the matter

Date of order: 06.05.2016

This is an application filed by M/s CESC Ltd., through Sri Debabrata Bhattacharya, General Manager (Finance) of CESC Ltd., hereinafter referred to as the applicant, under section 102 of the West Bengal Value Added Tax Act, 2003, hereinafter referred to as the VAT Act. The applicant holds VAT Registration/ TIN No. 19580009012 and has raised a question for determination of rate of tax applicable to the sale of Generator Rotor in West Bengal, which is said to be a rotor shaft assembly of Steam Turbine Generator Set.

The applicant has duly affirmed that the dispute has not arisen out of any order passed by any authority and that he has not filed any application before any Court, Tribunal, Board or any authority under the VAT Act, praying for determination of a dispute of similar nature referred to in this application.

Sri Parag Kothari, authorised Advocate of the applicant, submitted that Generator Rotor is covered under entry at serial No. 54C of Part I of Schedule C under the VAT Act and hence its sale should attract tax @ 5 %. Sri Kothari further added that the rotor in question is a part of power plant, which is a machinery for engineering industry mentioned at serial No. 54B (vii) of Part I of Schedule C and by virtue of being a part or component of machinery for engineering industry the item falls squarely under serial No. 54C.

Sri Parthapratim Chakrabarti, DGM (Supplies) of CESC Ltd, submitted a copy of 250 MW Turbine Generator along with some pictures showing the position of Generator Rotor in the Turbine Generator. The manual mentions that the turbine shafts and generator rotator are rigidly coupled together and the machine is driven by high pressure superheated steam.

Sri Adesh Kumar, PRO, stated that entry at serial No. 54C of Part I of Schedule C covers spare parts, accessories and components of machinery as under:

Serial No.	Description of goods	Conditions and Exceptions
(1)	(2)	(3)
54C	Spare parts, accessories and components of the plant and machinery mentioned in items (i) to (xxvii) in column (2) against serial No. 54B, and spare parts, accessories and components of an air-conditioner.	

He further added that except air-conditioner, spare parts, accessories and components of machines enumerated under entry at serial No. 54B only fall under the ambit of entry at serial No. 54C. Entry at serial No. 54B is as under:

Serial No.	Description of goods	Conditions and Exceptions
(1)	(2)	(3)
54B	Machinery, excluding generator of all types and diesel engine pump set, that is to say,— (i) Machinery for tea industry; (ii) Machinery for food and food processing industries including flour mill; (iii) Machinery for sugar mill; (iv) Machinery for beverages, tobacco and tobacco products industries; (v) Machinery for jute, hemp, mesta textiles industries; (vi) Machinery for textile industries including hosiery other than jute; (vii) Machinery for engineering industries; (viii) Machinery for paint industry;	

	<ul style="list-style-type: none"> (ix) Machinery for furniture and wood products industries; (x) Machinery for paper and paper products and printing, publishing and allied industries; (xi) Machinery for leather and fur product industries; (xii) Rubber, plastic, petroleum and coal product industry machinery; (xiii) Machinery for chemical and chemical products; (xiv) Machinery for basic metal and alloys industries; (xv) Machinery for non-metallic mineral product and industries; (xvi) Machinery including road roller for construction works; (xvii) Transport equipment and motor parts manufacturing machinery; (xviii) Mining machinery; (xix) Packaging machinery; (xx) Foundry machinery; (xxi) Agricultural machinery other than those mentioned elsewhere in any other Schedule; (xxii) Waste treatment plant and pollution control equipment; (xxiii) Machinery for printing industry; (xxiv) Machinery for iron and steel industry; (xxv) Machinery for refrigeration, cooling towers and air-conditioners; (xxvi) Cooling towers; (xxvii) Earth moving machinery; (xxviii) <i>Omitted</i> (xxix) <i>Omitted</i> 	
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Sri Adesh Kumar, PRO, pointed out that entry at serial No. 54B expressly excludes generators of all types hence parts or components of Turbine Generator do not come under the ambit of entry at serial No. 54C.

The matter is examined and submissions made by the authorised representatives were heard and the written literature submitted by them was perused.

From the available documents and submissions made by the authorised representatives it is clear that the item in question, that is, Generator Rotor is a part or component of 250 MW Turbine Generator. The argument of Sri Parag Kothari, Advocate, that Generator Rotor is a part or component of machinery for engineering industry and is covered by entry at serial No. 54B of Part I of Schedule C of the VAT Act, does not hold good as the State Legislature has explicitly excluded generators of all types from the ambit entry at serial No. 54B. That being the legal position, Generator Rotor, being a part or component of Turbine Generator, gets automatically excluded from the purview of entry at serial No. 54C.

Since Generator Rotor is neither specified by name nor by description under any of the Schedules appended to the West Bengal Value Added Tax Act, 2003, the rate of tax applicable to its sale in West Bengal is determined at 14.5 % under section 16(2)(ba) of the Act *ibid*, as an unspecified item.

Application filed under section 102 in the instant case stands disposed of as above. Send a copy of this order to the applicant for information.

Sd/-06/05/2016
(Binod Kumar)
Commissioner,
Sales Tax, West Bengal