

**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/15/261

- And -

In the matter of :

M/s TIL Ltd., carrying on business under the same trade name at  
1, Taratolla Road, Kolkata – 700024.

Present for the applicant: Sri Rajib Chatterjee, authorised representative and  
employee of the applicant Company.

Sri Adesh Kumar, Public Relations Officer (PRO) of the Directorate of  
Commercial Taxes, was also present to assist in the matter

**Date of order: 09.11.2015**

This is an application filed by M/s TIL Ltd., (hereinafter referred to as the applicant) under section 102 of the West Bengal Value Added Tax Act, 2003 (hereinafter referred to as VAT Act). The applicant has raised a question for determination of the rate of tax applicable to the sale of 15T multitasking hydraulic machine Pick-n-carry 'PIXEF 215<sup>TM</sup>.

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 Sri Rajib Chatterjee, authorised representative of the applicant, submitted that the applicant company is in the process of marketing and selling '15T multitasking hydraulic machine Pick-n-carry 'PIXEF 215<sup>TM</sup>', in the State of West Bengal and the said item is not clearly mentioned under Schedules given under the West Bengal Value Added Tax Act, 2003. He furnished a written submission giving details of the item in question and also submitted that applicant's competitors are charging VAT @ 5% for equivalent pick and carry products.

In the written submission the item has been referred to as Pick-n-carry Crane designed to travel on public roads and pick and carry load with its with its outriggers and boom is designed to lift load and carry to the desired destination or height. Winders, cables, ropes, chains, and a basic level pulley system are essential parts of this item. It is

used for constructing high buildings, bridges, flyovers, Metro and Railways and is said to be available in a range comprising of truck mounted cranes and hydraulic crawler cranes.

To wind up his submissions Sri Rajib Chatterjee prayed for considering the item in question under one of entries of serial No. 54B under item Nos. (vii), (xvi), (xviii) or (xxiv).

Sri Adesh Kumar, PRO, pointed out that crane is not specified either by name or by description under any of the Schedules appended to the West Bengal Value Added Tax Act, 2003, but it has been specified by the State Government as Capital goods under clause (6) of section 2 of the VAT Act, vide Notification No. 742-F.T. dated 22.05.2009 and its sale has been made taxable @ 5 % under section 16(2)(b)(i) vide Notification No. 1216-F.T. dated 10.06.2005.

The matter is examined and submissions made by the authorised representative were heard and also the written statement and literature submitted therewith, by the authorised representative of the applicant, were perused.

In fact the publicity brochure brought out by the applicant describes the item as 'A Versatile Pick 'N' Carry Crane From TIL' and that answers the question as to how the item is understood and dealt with in business circles.

Considering the nature and use of '15T multitasking hydraulic machine Pick-n-carry 'PIXEF 215<sup>TM</sup>', it is held to be a type of crane used to lift and carry heavy loads from one place to another or from one vertical level to another. There is no scope to consider it specifically as— (vii) Machinery for engineering industries; or (xvi) Machinery including road roller for construction work; or (xviii) Mining machinery; or (xxiv) Machinery for iron and steel industry, enumerated under entry at serial No. 54B of Part I of Schedule C of the VAT Act, as prayed for by the representative of the applicant.

Since Crane is neither specified by name nor by description under any of the Schedules appended to the West Bengal Value Added Tax Act, 2003, its sale in West Bengal will attract tax at the rate of 14.5 % under section 16(2)(ba) of the Act, as an unspecified item. However, sale of Crane will attract tax @ 5 % under section 16(2)(b)(i) when sold as Capital goods as specified by the State Government under clause (6) of section 2 of the VAT Act, vide Notification No. 742-F.T. dated 22.05.2009, read with Notification No. 1216-F.T. dated 10.06.2005, as amended from time to time. The rate of 5 % is subject to the condition that the crane is sold to a registered dealer for use by him directly in the manufacture of any goods in West Bengal or for use by him directly in the execution of any works contract in West Bengal.

Application filed under section 102 in the instant case stands disposed of as above. Inform the applicant accordingly.

Sd/-9/11/15  
(Binod Kumar)  
Commissioner,  
Sales Tax, West Bengal