



**BEFORE THE APPELLATE AUTHORITY FOR ADVANCE RULING  
for the State of Andhra Pradesh (Goods and Service Tax)**

(Office at O/o Chief Commissioner of State Tax, Govt. of A.P., D NO 5-56, Block-B,  
R.K.Spring Valley Apartment, Bunder Road, Edupugallu, Vijayawada,  
Andhra Pradesh – 521151)

**Present:**

**Sri PEEYUSH KUMAR (Member) (State Tax)**

**Sri NARESH PENUMAKA (Member) (Central Tax)**

The 28<sup>th</sup> day of September, 2020

Order /AAAR/AP/ 05(GST)/2020

1	Name and address of the appellant	M/s. Halliburton Offshore Services Inc (Drill Bits), Plot No.5A3, Unit-2, ADB Road, Vakalpudi, East Godavari District-533004, Andhra Pradesh.
2	GSTIN	37AAACH5154M1ZC
3	Date of filing of Form GST ARA-02	03.07.2020
4	Date of Personal Hearing	23.09.2020
5	Authorized Representative	Sri Prasad Paranjape, Advocate
6	Jurisdictional Authority – Centre	Superintendent, Ramanayyapeta Range, Kakinada CGST Division.

**(Under Section 101 of the Central Goods and Service Tax Act and the Andhra Pradesh Goods and Service Tax Act).**

At the outset, we would like to make it clear that the provisions of both the CGST Act and the APGST Act are the same except for certain provisions. Therefore, unless a mention is specifically made to such dissimilar provisions, a reference to the CGST Act would also mean a reference to the same provisions under the APGST Act.

The present appeal has been filed under Section 100 of the Central Goods and Services Tax Act, 2017 and the Andhra Pradesh Goods and Services Tax Act, 2017 [hereinafter referred to as “the CGST Act and APGST Act”] by **M/s. Halliburton Offshore Services Inc.** (herein after referred to as the “Appellant”) against the **Advance Ruling No. AAR No.07/AP/GST/2020 dated 25.02.2020 Authority for Advance Ruling, Andhra Pradesh.**

**1. Brief Facts of the Case:**

1. The appellant is engaged in supply of comprehensive range of oilfield related services such as drilling services, exploration and mining related services, etc. to oil exploration and production companies across the globe.



2. One of the goods supplied by the appellant in the course of supplying drilling services is drill bits. Drill bits are cutting tools used to remove material to create holes of circular cross-section in the extraction of natural gas, or petroleum, for the injection of a fluid from surface to a subsurface reservoir.
3. The appellant was awarded a contract by ONGC to supply drill bits on consignment basis i.e. sale on approval basis at ONGC's twelve different locations based on the call out orders received from ONGC.
4. Pursuant to the above, the Appellant imports drill bits and avails the benefit under Sr.404 of Notification No.50/2017- Cus. Dt: 30.06.2017. Subject to satisfying the conditions at Sr. No. 48, i.e. on filing the Essentiality certificate obtained from the Director General of Hydrocarbons, Noida. Accordingly the Appellant pays total customs duty at the rate of 5% i.e., Basic Customs Duty ('BCD')-0% + Integrated Goods and Services Tax ("IGST")-5% on the specified Goods.
5. In terms of entry at serial no.404 of Customs Notification, a concessional rate of Customs duty (BCD-NIL and IGST-5%) is prescribed for specified goods mentioned in List 33, required in connection with petroleum operations undertaken under petroleum exploration License or Mining Leases granted by the Government of India to ONGC. The drill bits are mentioned at serial no. 7 of List 33 in the Customs Notification.
6. The appellant charged and deposited GST at the rate of 18% under the HSN 82071900 for the supply of the imported bits at the price agreed in the contract.
7. The Central Government has issued Notification No.3/2017- Central Tax (Rate) dated 28 June 2017 wherein it has been provided that the intra-state supply of taxable goods to licensee i.e. the customers shall be taxable at the rate of 2.5% if the customer produces before the jurisdictional GST authority an EC obtained from DGH certifying that the said goods are required for petroleum operation. Identical Notification No.3/2017- Integrated Tax (Rate) dated 28.06.2017 has been issued under the Integrated Goods and Services Tax Act, 2017. Similarly, the State of Andhra Pradesh has provided similar benefit under the Andhra Pradesh Goods and Services Tax Act, 2017 (vide Notification No.G.O.Ms.No.583 dated 12<sup>th</sup> December 2017).

In the above circumstances the appellant approached the Advance Ruling Authority-Andhra Pradesh for Ruling on the following queries:

- Whether the import of drill bits for supply to ONGC at its location in India on consumption basis involves two supplies namely,
    - Import of drill bits into India; and
    - Indigenous movement from the port of import to ONGC's location.
- 1) If two supplies are involved in the above mentioned transaction, then whether two Essentiality Certificates ('EC') are required to be issued i.e.
    - One for import of drill bits into India under serial no.404 of Notification No.50/2017- Customs dated 30.06.2017 and



- Another for indigenous movement under Notification No.3/2017- Central Tax (Rate) dated 28.06.2017.

2) If answer to (a) above is no, then whether the supply of drill bits to ONGC in India will be covered by serial no.404 of Notification No 50/2017-Customs dated 30.06.2017 (i.e. under single EC) and no two separate ECs are required.

The Authority for Advance Ruling Andhra Pradesh in ruling orders in AARNo.07/AP/GST/2020 dated 25.02.2020 held:

1. That the Import and subsequent Supply to ONGC on consignment basis i.e. on approval basis are two distinct Supplies as prescribed under the Customs Act and GST Acts.
2. As the Import and Supply to ONGC are distinct supplies, the applicant needs to furnish different Essentiality Certificates that is to say one at the time of import to the Custom Authorities and another at the time of supply to ONGC to the GST Authorities, to avail the Concession/Exemption.

Aggrieved by the order of Authority for Advance Ruling dated 25.02.2020 the Appellant has filed the present Appeal, inter alia, on the following grounds which are urged without prejudice to each other:

## 2. Grounds of Appeal:

- A.** It is submitted that the impugned ruling passed by the Ld. Authority is ex-facie untenable and unsustainable in law and is liable to be set aside.

IMPORT OF DRILL BITS MANUFACTURED BY HESI IS INEXTRICABLY AND DIRECTLY LINKED TO CONTRACT ENTERED INTO WITH ONGC.

- B.** As stated in the facts above, the Appellant has entered into a contract with ONGC for supply of drill bits manufactured by HESI. This would entail, import of the premium drill bits by the Appellant. Post import, the said drill bits are supplied at the respective ONGC locations on "sale on consignment/ approval basis". Once the said drill bits are delivered at ONGC's location, they are stored in ONGC's storage space till the same is used/ consumed/returned by ONGC.

- C.** Considering the fact that the supply to ONGC is on consignment basis/ sale on approval basis, in terms of Section 24 of the Sale of Goods Act, 1930 the sale will be complete only when ONGC has signified or informed about their approval or kept the goods till the lapse of the prescribed/reasonable time. The said section 24 of the Sale of Goods Act, 1930 is reproduced below:

**"24. Goods sent on approval or "on sale or return"** – when goods are delivered to the buyer on approval or "on sale or return" or other similar terms the property therein passes to the buyer-

- (a) When he signifies his approval or acceptance to the seller or does any other act adopting the transaction;
- (b) If he does not signify his approval or acceptance to the seller but retains the goods without giving notice of rejection, then if a time has been fixed



*for the return of the goods, on the expiration of such time, and if no time has been fixed, on the expiration of a reasonable time."*

- D.** As stated above and as stated in detail in para 20 of the application filed by the appellant before the Ld. Authority, the said transaction of supply of drill bits to ONGC entails 2 legs viz. (1) import of drill bits from HESI and (ii) supply of imported drill bits to the agreed 12 locations of ONGC.
- E.** Admittedly, the Section under the CGST Act/APGST Act/IGST Act providing for the levy of the applicable GST on the aforesaid 2 transactions are distinct i.e. the charging section providing for the levy of IGST on import and for levy of CGST and SGST or IGST on supply of goods to ONGC for sale on approval basis is different.
- F.** The Ld. Authority in para 8.3 and 8.4 of the impugned Ruling has observed that:
- i)** It is a self-asserted and admitted fact on record that the appellant, under a contractual obligation, is required to import drill bits by themselves as an importer and undertake to supply drill bits to the delivery location of ONGC on consignment basis i.e., sale on approval basis.
  - ii)** In terms of Section 7(2) of the IGST Act, the supply of goods imported into territory of India, till they cross the customs frontiers of India shall be treated to be a supply of goods in the course of inter – state trade or commerce.
  - iii)** Till the clearance by the customs authorities i.e. issuance of out of charge, the supply of goods shall be treated as 'inter-state supplies' and in terms of the proviso to Section 5 of the IGST Act, the IGST on the goods imported shall be levied and collected in accordance with the provisions of the Section 3 of the Customs Tariff Act, 1975.
  - iv)** Once the goods imported are cleared by the Customs Authorities, all the provisions of the customs law ceases to be applicable or extendable to such goods.
  - v)** It is, therefore, clear that the activity of import of drill bits is a distinct activity of supply of goods in the course of inter-state trade or commerce.
- G.** It is submitted that in compliance with the above observations the Appellant paid the applicable Customs duty at the time of import of goods and the CGST/SGST or UTGST or IGST (As applicable) on the supply of said imported goods to 12 different locations of ONGC, as agreed to in the contract.
- H.** It is submitted that the Ld. Authority has, however, failed to consider the fact that the transaction of import of drill bits manufactured by HESI is inextricable and directly linked with the contract entered into with ONGC. It is also not the case of the Ld. Authority that the goods imported from HESI and those supplied to ONGC are not the same.



**I.** From the terms of the contract entered into with ONGC and the other import documents as referred to in the statement of facts above, it is clear that:

- i) The contract entered into with ONGC has occasioned the import of drill bits by the appellant.
- ii) The said imported goods are entirely for supplying to ONGC under the aforesaid contract.
- iii) In terms of Clause 14 of the Contract, at its sole option, ONGC may outright purchase suitable bits at the end of the contract period. The leftover drill bits which are not used or returned back by ONGC are required to be re-exported by the appellant.

**J.** In view of the aforesaid, it is submitted that the import of drill bits from HESI is directly and inextricably linked to the contract entered into with ONGC.

The appellant is entitled to the benefit of concessional rate under Notification No.3/2017- Central Tax (Rate) dated 28.06.2017.

**K.** As discussed in the facts above, since the imported drill bits are required for oil and Gas/ Petroleum operations, they are entitled to benefit of concessional import duties under Sr.No.404 of the Customs Notification. The said exemption is available in respect of the goods covered in list 33 annexed to the said notification and is subject to satisfying the conditions prescribed at condition no.48 annexed to the said Notification.

**L.** One of the conditions prescribed under the said condition no.48 to customs Notification is that the importer should furnish an EC from the DGH inter alia certifying that the imported goods are required for petroleum operations. The relevant extract of the said condition is reproduced below:

*"where the importer,-*

*(i) Is a contractor, he produces to the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be, at the time of importation, the following, namely:-*

*1) A certificate from a duly authorized officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect the imported goods are required for:-*

**A.** *Petroleum operations referred to in sub-clause (ii) of clause (a) and have been imported under the contract referred to in that sub-clause, or*

**B.** *Petroleum operations or coal bed methane operation referred to in sub-clause (iii) of clause (a), as the case may be, and have been imported under a contract signed under the New Exploration Licensing policy or the Coal Bed Methane Policy or the Marginal Field Policy, as the case may be; and".*



**M.** The specimen EC dated 20 September 2017 issued by the DGH, as reproduced in statement of facts at para 9 above, certifies that the imported goods are required for petroleum operations undertaken under petroleum exploration licenses or mining licenses granted to ONGC. The said EC is addressed to the concerned Deputy Commissioner at the port of import and bears reference to Customs Notification.

**N.** Similar to the above, vide Central Tax Notification exemption is provided to indigenous goods supplied for specified petroleum and other explorations and productions under the various schemes from so much of the central tax leviable thereon under section 9 of the CGST Act, as is in excess of the percentage prescribed and subject to the relevant conditions annexed to the notification. Drill bits imported are covered at serial no. 7 of the list of goods annexed to the said Notification. The condition prescribed is identical to that under the customs Notification referred above. Relevant extract of the condition prescribed to the Central Tax Notification, reads thus:

*"(ii) is a contractor, he produces to the Deputy Commissioner of Central Tax or the Assistant Commissioner of Central Tax or the Deputy Commissioner of State Tax or the Assistant Commissioner of State Tax, as the case may be, having jurisdiction over the supplier of goods, at the time of outward supply of goods, a certificate from a duly authorised officer of the Directorate General of Hydro Carbons in the Ministry of Petroleum and Natural Gas, Government of India, to the effect that the goods are required for*

**A)** *Petroleum operations referred to in sub-clause (ii) of clause (a) under the contract referred to in that sub-clause, or*

**B)** *Petroleum operations or coal bed methane operations referred to in sub-clause (iii) of clause (a), as the case may be, under a contract signed under the new exploration Licensing Policy or the coal Bed Methane Policy or the Marginal Field Policy, as the case may be;"*

**O.** Upon the perusal of the above, it is submitted that the key requirement of the condition prescribed under both the Notifications is to produce the EC from the DGH certifying that the goods are required for petroleum operations. The only difference is that the EC stated as a condition under the Customs Notification is to be produced before the Assistant Commissioner/Deputy Commissioner of Customs and under the Central Tax Notification is to be produced before the Assistant Commissioner /Deputy Commissioner of Central Tax. This difference is also because the Notifications are issued under the respective Acts. The key purport of both the conditions is the same.

**P.** It is submitted that both the conditions say that an EC is required to be produced before the concerned Assistant Commissioner /Deputy Commissioner and does not say that it has to be addressed to the concerned Assistant Commissioner/ Deputy Commissioner under the Customs Act or under the CGST/SGST Acts. Also,



there is no requirement in the condition prescribed under either of the 2 Notifications to mention the Notification number under which the exemption is being claimed using that certificate.

- Q.** Admittedly, the recommendation for granting of the EC is made by ONGC for the goods to be imported by the appellant and to be supplied to ONGC which would be required for the petroleum operations. As submitted above, the same goods which are imported by the appellant are required for the petroleum operations carried out by ONGC.
- R.** Is it submitted that the DGH issues the EC qua the Goods. Once it is established that the same imported goods are supplied by the appellant to ONGC, there cannot be any requirement for procuring a new EC from the DGH for the further supply of the same imported goods.
- S.** It is submitted that the DGH also recognizes this concept and issues only 1 EC for the same goods. ONGC, as well does not make further recommendation/application for issuance of a second EC in respect of the same imported goods further supplied domestically.
- T.** It is submitted that the appellant agrees with the finding of the Ld. Authority that the benefits or exemption of a Notification (conditional in nature) is available or eligible to the goods, only if the conditions specified therein are fulfilled or complied with.
- U.** It is submitted that the Ld. Authority has not applied its mind or given any finding on the fact that purport of the conditions attached to the Notification is merely that the DGH should certify that the goods procured are required for petroleum operations. The condition, exemption and the certificate are issued qua the goods. Once, it is not in doubt that there exists a certificate from DGH certifying that the goods in question are required for petroleum operations, condition prescribed under both the Notifications stands complied with.
- V.** The appellant refers to and relies upon the judgement of the Hon'ble Supreme Court in the case of **Commissioner of Customs vs. Tullow India Operations Ltd.- 2005 (189) ELT 401(SC)**. In this case, the Hon'ble Supreme Court held that once the EC is produced it should be construed to be sufficient compliance of the notification and any delay in producing the same should not disentitle the importer from the benefit of the notification. In the present case, applying the said ratio, the appellant has indeed produced EC which is issued by the competent authority contemplated in the notification and certifying what is contemplated in the notification viz. that the goods are required for petroleum operations.
- W.** The Hon'ble Supreme Court further held that the eligibility clause in relation to an exemption notification should be given strict meaning and the notification has to be interpreted in terms of its language; however, once an assessee satisfies the



eligibility clause, the exemption clause therein may be construed liberally. In the present case, since the Director General of Hydrocarbon has issued the EC, certifying that the goods are required for petroleum operations, even if the said EC is not addressed to the officer under the CGST Act, that should not disentitle the applicant from the benefit of the notification without challenging correctness of the said EC. Admittedly, once the benefit has been granted under the customs notification by relying upon the same EC. The correctness of EC cannot be in any doubt.

- X.** In another case, the Hon'ble Bombay High Court in the case of **Larsen & Toubro Ltd Vs. UOI – 2013 (298) ELT 217 (Bom)** had an occasion to rule on the sanctity of Essentiality Certificate. In the said case, the dispute was whether the EC can be issued to an importer or a sub-contractor in the contract. The Court held that once the goods are found to be eligible and EC is issued, the same cannot be challenged or cancelled. In the present case too, once the EC is issued, the CGST officer has to honor the same for the purpose of extending the benefit of the exemption notification. Drawing ratio from the ruling of the Court, EC is qua the goods and not qua the transaction.
- Y.** It is submitted that the Ld. Authority in the Ruling has merely observed that for claiming the benefit under Central Tax Notification, the conditions attached to the Notification are required to be fulfilled. It has not gone into the issue as to whether the EC issued by the DGH in respect of the same goods, which has been accepted by the Customs Authorities for applying concessional customs duty rate, is sufficient for compliance of the condition prescribed under the Central Tax Notification as well.
- Z.** In view of the aforesaid submissions, it is clear that the EC issued by the DGH is qua the goods involved in present dispute and the same EC can be used for complying with the conditions both under the customs Notification and Central Tax Notification.
- AA.** In view of the above, the Ruling of the Ld. Authority should be modified to suggest that the EC produced by the Appellant under which the benefit of concessional customs duty is granted under Customs Notification is sufficient for compliance with the condition prescribed under Central Tax Notification and the drill bits imported by the Appellant can be supplied to 12 locations of ONGC at the concessional rate prescribed under the Central Tax Notification.
- BB.** In view of the aforesaid, it is respectfully prayed that:
- i. The impugned Ruling issued by the Ld. Authority be modified to hold that the appellant is entitled to concessional rate of tax based on Notification 03/2017-CT (Rate) dated 28.06.2017 and corresponding State GST notification, based on a single Essentiality Certificate produced at the time of import of goods; and



- ii. Grant a personal hearing and permit the Appellant to produce additional documents and other materials at the time of personal hearing.
- iii. For such further and other reliefs as this Hon'ble Appellate Authority may deem fit in the facts and circumstances of the case.

### **3. Personal Hearing:**

The proceedings of Hearing were conducted through video conference on 23<sup>rd</sup> September 2020, for which the authorized representative, Sri Prasad Paranjape, Advocate attended and made additional submissions as under:

### **4. Additional submissions:**

#### **Facts:**

1. The appellant is a company incorporated under the laws of Cayman Islands and operates in India as a project office. As part of its India Operations, the Appellant has also set up a unit in the State of Andhra Pradesh, which is registered under the GST law.
2. The appellant secured a contract bearing no.8040000039 dated 20 May 2015 from Oil & Natural Gas Corporation Ltd ("ONGC") to supply drill bits on consignment basis i.e., Sale on approval basis to ONGC's 12 different locations based on call -out order received from ONGC.
3. Since the goods to be supplied by the appellant are to be used in petroleum operations undertaken under Petroleum Exploration Licenses or mining leases granted by the Government to ONGC, the goods are entitled for exemption (reduced rate of tax) under the Customs and GST laws.
4. One of the conditions to qualify for such exemption under both – Customs and GST laws, is to produce an Essentiality Certificate ("EC") issued by the Director General of Hydrocarbon ("DGH"). The conditions of the exemption, including that of the EC are identical in Customs and GST laws. The said EC is issued on an application or recommendation made by ONGC. The said EC is consignment specific and specifies the details of each consignment, including Purchase order number, Operator's name, importer's name, CIF value, Invoice number, blocks (i.e. place of use), description of goods, quantity, mining lease details.
5. The objective of mentioning all these details is to ensure that the goods are tracked right from entry into India till its intended use in petroleum operations and are not diverted elsewhere. In other words, it is implicit while granting the EC that the goods will be used in specified petroleum operations as mentioned in the EC. In practice, DGH issues only one EC per consignment.
6. With the above background and being aggrieved by the Impugned Order, specifically with respect to question (b) at para 2 above, the Appellant is before this Hon'ble Appellate Authority of Advance Ruling.



## SUBMISSIONS:

1. The appellant reiterates the submissions made in the appeal memorandum.
2. As can be seen from the whole scheme of things, i.e. exemption notifications, EC issued that the import is allowed only for the purpose of consequent supply to ONGC for the purpose of use in specified operations. The goods cannot be put to any other use without seeking necessary permissions and payment of taxes.
3. Unlike, in the case of any other transaction, the import and subsequent supply of impugned goods viz. drill bits, is inextricably linked till the goods are ultimately put to its intended purpose. It can be seen from the EC issued by DGH that it certifies that the goods being imported are required for petroleum operations of execution of projects under Petroleum Exploration Licenses or Mining Leases granted by the Government to ONGC. This certification is given *qua* the goods and EC is given clearly identifying the goods for which exemption is given. It is also a practice followed by DGH to issue only one EC per consignment.
4. Section 11(1) of the CGST Act under which the relevant exemption is granted authorises the government to grant exemption, either absolutely or subject to conditions, for 'goods of any specified description'. Notification No.3/2017-CT (Rate) dated 28.06.2017 therefore exempts 'goods of given description', subject to specified conditions. Thus, it is clear that the exemption can be granted *qua* the goods not the person. Since the conditions in Customs exemption notification and GST notification are identically worded, it is submitted that the EC obtained for Customs should suffice for the purpose of GST notification also.
5. As already submitted, the Appellant imports the goods only for the purpose of supplying to ONGC. The EC is issued on the application / recommendation of ONGC. The said EC clearly identifies the goods for which the exemption is granted with added obligation of specified use. The condition of specified use and obtaining certificate to this effect is a common condition under the customs and the GST law. Thus, when the exemption is attached to the goods and once, for the purpose of Customs law, it is established that the goods are eligible for exemption, thus the very same goods when put to very same use in another but continuing limb of the transaction, should be eligible for exemption on the basis of same EC without insisting on a separate EC, especially since DGH follows the practice of issuing single EC per consignment. The Appellant cannot be put to detriment for the things which are beyond their control.
6. Without prejudice it is submitted that the purport and the objective of the Notification No. 50/2017-Cus. issued under the Customs Act and the Notification No. 3/2017-CT (Rate) issued under the CGST Act and other corresponding Notifications issued under the IGST Act and the APGST Act is the same i.e. to permit the import/ subsequent supply of goods for petroleum operations at concessional rate with an objective of reduction in fuel exploration costs and making the fuel available to general public at a reduced price.



7. The Ld. AAR is right in holding in its answer to question (a) framed before it that the transaction of import and subsequent supply are two distinct transactions i.e. distinct supplies as prescribed under the Customs/ GST Acts. However, it is undeniable that they still continue to form an inextricable link between each other. The transactions are coterminous.

8. It is submitted that both the supplies are arising out of a single contract awarded to the Appellant by ONGC. It is a fact on record that the execution of contract of providing drilling services to ONGC has occasioned the import of drill bits into India and its subsequent supply to ONGC for usage during providing of services to ONGC is in continuation of the import activity.

9. It is also worthwhile to note that both the notifications do not require EC to be addressed to any entity or require it to be obtained by any specific person. The relevant condition is to produce the EC before a particular officer certifying the specific goods for the specific use. So long as the EC certifies the intended use as envisaged under the GST notification, the other details on the EC should not come in way to disallow the benefit of the GST exemption notification.

10. In these circumstances, the Certificate available on record which certifies the specified use of the goods should be sufficient compliance of the Notification under the GST law.

11. As submitted earlier, both the transactions viz. import and local supply are inextricably linked. If the GST Authorities were to refuse accepting the EC produced before the Customs authorities when admittedly the conditions of both the notification are the same, it will amount to GST authorities taking different view than the Customs in respect of same goods, in same transaction-chain and for the same use of the goods. It is settled position in law that when one Government Authority has accepted the compliance of the Appellant, it is not open for the other Government Authority to deny the same. For this, the Appellant relies on the judgment in case of **Commissioner of Income-Tax vs. Anandha Metal Corporation, 2004 SCC On Line Mad 952[(2005) 273 ITR 262]**.

12. Once the Customs EC carries the same certification that is needed to claim exemption under the GST law, insistence of separate EC for GST exemption purpose is futile and not warranted in law. It is settled position in law that once the Appellant has demonstrated that the goods in question are entitled for exemption, then merely based on the template of the EC, exemption cannot be denied. Once the Appellant establishes their eligibility to the exemption, then the other conditions of the notification have to be liberally interpreted. In the present case, therefore, once it is admitted that the condition under the Customs Act and the GST law are the same, and the Appellant is granted valid exemption under the Customs law, the GST Authorities should not insist on separate EC for GST purpose. For this, the Appellant relies on the following:

- a. Obium Electrical Industries Pvt. Ltd. Vs. Collector of Customs, Bom. 1997 (94) ELT 449 (SC).
- b. Commissioner of Income Tax, Amritsar vs. Straw Board Manufacturing Co.



Ltd., 1989 Supp (2) SCC 523 = AIR 1989 SC 1490].

c. Hansraj Gordhandas vs. H.H. Dave, Assistant Collector of Central Excise Customs Surat and Others, (1969) 2 SCR 253 = AIR 1970 SC 755.

d. Collector of Customs Vs. Bharat Heavy Electricals Ltd., 1992 (61) ELT 332 (SC).

e. Commissioner of Customs, Import (Mumbai) Vs. Tullow India Operations Ltd., 2005 (189) ELT 401 (SC).

### 5) Discussion:

The appellant has not disputed the Ruling to the extent that the transaction of import and subsequent supply to ONGC are two distinct transactions i.e. distinct supplies as prescribed under the Customs / GST Acts. Thus the decision of the impugned order with regard to the import of drill bits for supply to ONGC at its location in India on consumption basis involves two supplies namely, Import into India of drill bits; and Indigenous movement from the port of import to ONGC's location is upheld..

The main contention on behalf of the appellant is that the case fell within the language of the two notifications, one for import of drill bits into India under serial no. 404 of Notification No. 50/2017-Customs, dated 30 June 2017 and another for indigenous movement under Notification No. 3/2017-Central Tax (Rate), dated 28 June 2017 under the IGST/CGST Acts respectively. There is no requirement to obtain Two separate Essentiality Certificates from the same Authority i.e., Director General of Hydrocarbons one at the time of import and another for Interstate, Intra State supply of the same under the GST Laws, to entitle him for claiming exemption/concession rate of Tax under both the enactments.

The appellant relied on several judgements of the Honourable courts in support of his contention. The Judgements relied by the appellant are different from the present case. The appellant relied on the judgements related to Classification, inclusion/exclusion of goods under Excise Tariff manual and applicability of exemption notifications, to the similar line of trade, etc., under the Customs and Excise Tariff enactments of the Central Government. The present issue relates to requirement of Essentiality Certificate for claiming concessional rate of Tax /exemption under different Tax Authorities for distinct and different supplies involved i.e. one at the time of import under Customs and another during the course of local sale/supply under Central and state enactments.

In the case of **Innamuri Gopalan v. State of Andhra Pradesh, [1963] 2 SCR** the Honourable Supreme Court held that the State was "possibly right in the submission that the object behind the framers of the notification was to avoid double taxation but the operation of an enactment or of a notification has to be judged not by the object which the legislature or the notifying authority, as the case may be, may have had in mind but by the words which it has employed to effectuate the legislative intent".



The same was reaffirmed in the case Hansraj Gordhandas v. H.H. Dave & Ors., [1969] 2 SCR 260

".....But, the Operation of the notifications had to be judged not by the object which the rule making authority had in mind but by the words which it had employed to effectuate the legislative intent."

In view of the above discussions, it is concluded that The Essentiality certificates prescribed under the said two notifications have to be furnished separately to avail the benefit of the said notifications.

Thus the order is issued.

### ORDER

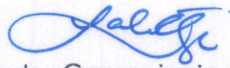
We do not find any reason to interfere with the ruling pronounced by the Authority for Advance ruling vide their **order No. AAR No.07/AP/GST/2020 dated 25.02.2020 Authority for Advance Ruling, Andhra Pradesh.**

Sd/- Peeyush Kumar  
Chief Commissioner (State Tax)  
Member

Sd/- Naresh Penumaka  
Chief Commissioner (Central Tax)  
Member



//t.c.f.b.o//

  
Deputy Commissioner (ST)  
**DEPUTY COMMISSIONER (ST)**  
O/o. Chief Commissioner of State Tax,  
Government of A.P., Vijayawada

**TO**

- 1) M/s. Halliburton Offshore Services Inc.(Drill Bits),  
Plot No.5A3, Unit-2, ADB Road, Vakalpudi, East Godavari District,  
Pin.No.533004 (Andhra Pradesh) **(By Registered Post)**
- 2) M/s. Halliburton Offshore Services Inc.(Drill Bits),  
International Business Park, 17<sup>th</sup> Floor, Commerz II,  
Oberoi Garden City, Off Western Express Highway, Goregaon (East),  
Mumbai-400063 Maharashtra State **(By Registered Post)**

**Copy to**

1. The Assistant Commissioner of State Tax, Kakinada Circle, Kakinada Division.  
**(By Registered Post)**
2. The Superintendent of Central Tax, Ramanayyapeta Range, Kakinada CGST  
Division. **(By Registered Post)**

**Copy submitted to**

1. The Chief Commissioner (State Tax), O/o Chief Commissioner of State Tax,  
Eedupugallu, Vijayawada.
2. The Chief Commissioner (Central Tax), O/o Chief Commissioner of Central tax  
& Customs, Visakhapatnam Zone, GST Bhavan, Port area, Visakhapatnam-  
530035. **(By Registered Post)**