

**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/15/272

- And -

In the matter of :

M/s Opto Marketing Co. Pvt. Ltd., carrying on business under the same trade name at 627/1, Diamond Harbour Road, Kolkata-700034.

Present for the applicant: Sri Tapan Kumar Panja and Sri Om Praksah Jalan, both Directors of the applicant Company.

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: 12.04.2016**

This is an application filed by M/s Opto Marketing Co. Pvt. Ltd., through Sri Tapan Kumar Panja, Director, 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 No./ TIN 19620753086 and has raised a question for determination of rate of tax applicable to the sale of 'SMPS Battery Charger' used for charging batteries of E-Rickshaw (Toto).

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 Tapan Kumar Panja and Sri Om Praksah Jalan, Directors of the applicant Company of the applicant Company, appeared and submitted that SMPS (Switch Mode Power Supply) Chargers dealt in by them are mainly used to charge batteries of E-Rickshaw commonly known as Toto.

Sri Panja, Director, submitted that SMPS charger is a part of Uninterrupted Power Supplies or UPS and is included under entry at serial No. 42 of Part II of Schedule C of the VAT Act and hence its sale should attract tax @ 5 %.

Sri Jalan, Director, added that sale of E-Rickshaw attracts tax @ 5 % as battery operated vehicle as such its charger should also attract tax at the same rate especially, if it is sold with the E-rickshaw. He, however, admitted that at present they are paying VAT @ 14.5 % but some of their competitors are paying tax @ 5 % only.

Sri Adesh Kumar, PRO, pointed out that SMPS Battery Charger is not enumerated by name under any of the Schedules appended to the VAT Act. He added that entry related to UPS at serial No. 7 of Part II of Schedule C of the Act is as under:

Serial No.	Description	HSN Code
7.	Uninterrupted Power Supplies (UPS) and their parts.	85.04

He submitted that battery charger is enumerated under Central Excise Tariff Head 85044030 and battery charging unit is one of the constituents of UPS which keeps the battery of UPS charged. For qualifying under the entry under Schedule C the battery charger has to be a part or component of UPS and not a standalone independently saleable Charger.

He further pointed out that SMPS Battery Charger is not a part of E-rickshaw as argued by the applicant, moreover, parts or accessories of battery operated vehicles are not covered under entry at serial No. 13B of Part I of Schedule C of the VAT Act. He also cited the judgment passed by the Hon'ble Supreme Court of India in the matter of State of Punjab & Ors vs Nokia India Pvt. Ltd. in Appeal Case 11486-11487 of 2014, involving Mobile Phone and its Charger, where the Apex Court held that-

“The Assessing Authority, Appellate Authority and the Tribunal rightly held that the battery charger is not a part of the mobile/cell phone. If the charger was a part of cell phone, then cell phone could not have been operated

without using the battery charger. But in reality, it is not required at the time of operation. Further, the battery in the cell phone can be charged directly from the other means also like laptop without employing the battery charger, implying thereby, that it is nothing but an accessory to the mobile phone...”

The matter is examined. Submissions made by the Directors of the applicant Company, including written statement submitted by them along with the application, and inputs given by the PRO are also considered.

A Battery Charger is used for charging batteries of various equipments or devices like laptops, mobile phones, torches, inverters, cameras, battery operated vehicles, space crafts, etc., and accordingly, its shape, size, input electric current and output electric current, etc., may vary.

The item in question that is, ‘SMPS Battery Charger’ dealt in by the applicant and said to be used for charging batteries of E-Rickshaw is not a part of Uninterrupted Power Supplies (UPS) and thus it does not fall under the ambit of enumeration under serial No. 7 of Part II of Schedule C appended to the VAT Act. Further, it is also not a part of E-Rickshaw, which nevertheless is not covered under entry serial No. 13B of Part I of Schedule C of the VAT Act. It is a standalone item and is purchased and sold independently as ‘SMPS Battery Charger’.

Since ‘SMPS Battery Charger’ used for charging batteries of E-Rickshaw 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.

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/-  
(Binod Kumar)  
Commissioner,  
Sales Tax, West Bengal