

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL**  
**NEW DELHI**

PRINCIPAL BENCH – COURT NO. I

**CENTRAL SALES TAX APPEAL NO. 50515 OF 2024**

(Arising out of order dated 28.04.2023 passed by the Maharashtra Sales Tax Tribunal, Mumbai, Nagpur Bench)

**M/s Solar Industries India Ltd.**

**.....Appellant**

Plot No. 11, Zade Layout  
Bharat Nagar  
Nagpur - 440033  
Maharashtra

**VERSUS**

**1. State of Maharashtra**

Through Commissioner of Sales Tax  
8<sup>th</sup> Floor, Vikrikar Bhavan  
Mazgaon  
Mumbai – 400 010

**2. State of West Bengal**

Through Commissioner of Commercial Taxes  
Directorate of Commercial Taxes  
Government of West Bengal  
14, Beliaghata Main Road  
Kolkata – 700 015

**3. State of Jharkhand**

**.....Respondents**

Through Commissioner of Commercial Tax  
Commissioner Commercial Taxes Department  
Jkharkhand Mantaralaya  
Project Building  
Dhurwa, Ranchi – 834 004

**WITH**

**CST/50516/2024**

**CST/50518/2024**

**CST/50520/2024**

**CST/50517/2024**

**AND**

**CST/50519/2024**

**APPEARANCE:**

Shri Rahul C. Thakar, advocate for the appellant

Ms. Rama Ahluwalia, advocate for the State of Maharashtra

Ms. Madhumita Bhattacharjee and Shri Sumit Ranjan, advocates for the State of West Bengal

**CORAM:**

**HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT**

**HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)**

**Date of Hearing: 02.05.2025**

**Date of Decision: 08.08.2025**

**FINAL ORDER NO's. 51161-51166/2025****JUSTICE DILIP GUPTA:**

All the aforesaid six appeals have been filed by M/s. Solar Industries India Limited, Nagpur<sup>1</sup> situated in the State of Maharashtra for setting aside the common order dated 28.04.2023 passed by the Maharashtra Sales Tax Tribunal, Mumbai, Nagpur Bench<sup>2</sup> in the six appeals filed by the appellant against the order passed by the Deputy Commissioner.

2. Central Sales Tax Appeal Numbers 50515 of 2024, 50516 of 2024, 50517 of 2024, 50518 of 2024 and 50519 of 2024 have been filed by the appellant to assail the order dated 28.04.2023 passed by the Sales Tax Tribunal that upholds the order passed by the Deputy Commissioner for the periods from 2012-13, 2013-14, 2015-16, 2016-17 and 01.04.2017 upto 30.06.2017. Central Sales Tax Appeal Number 50520 of 2024 has been filed by the appellant to assail that part of the order dated 28.04.2023 passed by the Sales Tax Tribunal that rejects the branch transfer of the finished goods for the period 2014-15.

3. The appellant is engaged in the manufacture and trading of explosives. It has a manufacturing unit situated at Nagpur and claims to be having depots in the State of West Bengal and the State of Jharkhand. The appellant manufactures packaged explosives at the Nagpur Unit, which are predominantly used in mining industries. This product is a controlled substance covered by the provisions of the Explosives Act, 1884 and the Rules framed thereunder.

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1. the appellant

2. the Sales Tax Tribunal

4. Coal India Limited<sup>3</sup> and its subsidiaries are engaged in the business of mining minerals. The subsidiaries of Coal India require a steady supply of explosives for carrying out the mining activity. For the purpose of purchase of packaged explosives, Coal India floats tenders for supplies on a rate contract basis on behalf of its subsidiary companies NCL, SECL, MCL, WCL, BCCL, ECL, CCL and NECL. According to the appellant, Coal India selects five vendors for supply to each subsidiary so as to have reliability of supplies. Each subsidiary of Coal India has several collieries which are the actual consumers of the explosives. Each colliery has its own licensed storehouses for explosives which are called 'magazines'. The licence specifies the maximum quantity of explosives that can be stored at any point of time in the magazines.

5. According to the appellant, the subsidiaries of Coal India like ECL, BCCL and CCL have very small capacity magazines. The appellant further claims that each individual colliery of these three subsidiaries place indents i.e supply orders on the depots of the appellant in a specific format RE-11 contained in the Explosives Rules 2008. The time taken for the explosives to reach the collieries situated in the States of West Bengal and Jharkhand after despatch from the Nagpur factory of the appellant in the State of Maharashtra is about 15 days. It is, therefore, impossible to execute the supply order directly from the Nagpur factory to these collieries because the magazines do not have sufficient licensed capacity to store all the explosives despatched in the vans. The appellant also claims that none of the collieries of these subsidiaries have sufficient capacity to unload an entire truckload of explosives and, therefore, the appellant has to maintain licensed magazines in the destination States to

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**3. Coal India**

act as a depot for the explosives and the small supplies of explosives for the collieries are made from the stocks kept at the depots.

6. To maintain reliable and steady supply of the explosives to the subsidiaries, Coal India floats tenders for the rate contracts. The appellant entered into such running contracts/rate contracts on 14.03.2012 with Coal India valid for the period from 01.04.2012 to 31.03.2015. The relevant portions of the running contract dated 14.03.2012 are reproduced below:

**"Your above mentioned offer has been accepted and accordingly, we, for and on behalf of all the subsidiary companies of Coal India Limited including NEC are hereby pleased to enter into a RUNNING CONTRACT (RC) with you for supply of Cartridge Explosives and Accessories to all subsidiary companies of Coal India Limited including NEC at the following price and terms and conditions,**

**01. Duration of Contract**

The RC will be valid for 3 years, from 1<sup>st</sup> April' 2012 to 31<sup>st</sup> March' 2015. CIL also reserves the right to extend/shorten the duration of the contract during it's validity period. CIL also reserve the right to rescind/short close the contract in case of breach of terms and conditions of the contract by the bidder.

**02. Item description, quantity, unit price & subsidiary allocation - As per Annexure-1.**

The RC items, quantity for 3 years and unit prices are mentioned at Annexure- '1'. The year wise RC qty for each item shall be indicated separately. The monthly allocation will be placed by the respective subsidiary companies and **NEC** individually within their share of RC qty as indicated at Annexure-1. **Supplies would be strictly governed by the actual requirement of the collieries and as per the allocation/order to be placed by the subsidiary companies & NEC in every month against their specific approved indents only.**

Initially monthly allocations shall be issued against the RC qty only.

### 03. Quantity variations

**CIL/subsidiaries reserve the right to increase/decrease the ordered/allocated quantity to the extent of (+/-) 20% of the RC quantity keeping in view the actual need of the subsidiary companies.** Bidders shall be required to accept the order for such higher/lower quantity at the same terms, conditions and price during the validity of the running contracts.

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### 11. Delivery

1. Item wise, year wise and subsidiary wise RC quantity has been indicated in the RC itself. **Monthly allocation shall be issued by subsidiary companies every month.** The supplier is liable to supply any quantity of any item to any subsidiary of CIL & NEC as per allocation made by subsidiary companies according to delivery period specified by the subsidiary companies.

2. The RC holder shall have to supply all items as offered by him on FOR destination basis to any place in any of the seven subsidiaries of Coal India Limited including NEC.

3. The monthly allocation shall be issued by the consignee latest by the last week of preceding month. The supply should be completed within the month for which allocation is issued; failing which liquidated damages shall be applicable as stipulated in the RC.

4. The dispatch of the products indicated at Annexure- '1' should be effected only after receipt of proper indent in Form-37/ Form RE-11 from the respective users of the Subsidiary Companies. The Explosives should be supplied only with the valid approval of the Statutory Authority like DGMS, CCOE etc. wherever it is mandatory.

5. It would be mandatory for the RC holder to maintain 90% delivery performance to be evaluated

on yearly basis for all RC items at each of the consignee subsidiary co. The yearly delivery performance shall be evaluated by each consignee sub co. separately and shall be intimated to CIL on yearly basis.

6. The subsidiaries shall furnish, (1) Requisition placed on suppliers against allocation and (2) Actual supply against the same (3) Percentage of supply made against the quantity requisitioned, duly approved by the concerned director.

7. In case the yearly delivery performance of any of the RC items falls below 90% at any of the subsidiary co, CIL reserves the right to rescind/short close the RC for the subsequent years for that particular item and the balance RC quantity for that item may be purchased from any of the existing RC holders or empanelled "Reserve RC holders" or outside vendors by CIL/ subsidiary on risk purchase basis.

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#### **14. Supply of extra quantity**

1. In case of failure of a particular RC holder to supply the cartridge explosives or accessories, the unsupplied/balance order quantity may be cancelled/reduced from the contract of the defaulting supplier after giving due notice to him and the cancelled order quantity of the defaulting supplier shall be re-distributed amongst other suppliers, including Reserve RC holders, as the case may be, within that subsidiary co. Supply of extra qty have to be preferably on ex-stock basis.

2. The opportunity to supply extra quantity on ex-stock basis shall be given first to existing RC holders and if the requirement is not met, then to Reserve RC holders. The distribution of extra quantity amongst the RC holders/ Reserve RC holders may be done preferably in an equitable manner but supplies not being delayed on this ground. Subsidiaries shall have the liberty to obtain extra supplies first from any/all of the RC holders and then from any/all the Reserve RC holders.

**15. Liquidated Damages**

In the event of failure to deliver or dispatch the stores within the stipulated date/period in accordance with the samples and/or specifications mentioned in the supply order and in the event of breach of any of the terms and conditions mentioned in the supply order, Coal India Ltd. and its Subsidiary Companies should have the right,

1. To recover from the successful bidder as agreed liquidated damages, a sum not less than 0.5%(half percent) of the price of any stores which the successful bidder has not been able to supply as aforesaid for each week or part of a week during which the delivery of such stores may be in arrears limited to 10%.

- (a) \*\*\*\*\*
- (b) To purchase elsewhere, after due notice to the successful bidder on the account and at the risk of the defaulting supplier the stores not supplied or others of a similar description without canceling the supply order in respect of the consignment not yet due for supply or
- (c) To cancel the supply order or a portion thereof, and if so desired to purchase the stores at the risk and cost of the defaulting supplier and also-
- (d) To extend the period of delivery with or without penalty as may be considered fit and proper, the penalty, if imposed shall not be more than the agreed Liquidated Damages referred to in clause (a) above.
- (e) To forfeit the security deposit full or in part.
- (f) Whenever under this contract a sum of money is recoverable from any payable by the supplier, Coal India Limited and its subsidiary companies shall be entitled to recover such sum by appropriating, in part or in whole by deducting any sum from any other contract should this sum be not sufficient to cover the full amount recoverable. The successful bidder

shall pay Coal India Limited and its subsidiary companies on demand the remaining balance. The supplier shall not be entitled to any gain on any such purchase.

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22. Performance & Penalty

1. Review of the product performance will be made on the basis of fragmentation/much pilling costs per CuM and Capacity improvement achieved for the total system. In the event of your Item not providing satisfactory results, penalty will be imposed by way of Price Reduction/Quantity Reduction/Withdrawal of these items.

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(emphasis supplied)

7. Annexure-I to the running contract, as mentioned in clause 02 of the running contract, is as follows :

ANNEXURE-I

Solar Industries India Ltd.

Item, Product name, Qty, Price

SL	Product	Product Name	Sub. Co.	Quantity (3 years)	For destination Price
1.	LD Column	Solar Gel/ Solar Gel-E	WCL	11,850 MT	Rs. 27,721/MT
2.	LD Booster	Solar Prime/ Solar Prime-E	WCL	3,150 MT	Rs. 31,431/MT
3.	Permitted-PI	Super Coal-I	All Sub.	1,151 MT	Rs. 60,178/MT
4.	Permitted-P3	Super Coal-3	All Sub.	1,955 MT	Rs. 59,018/MT
5.	Permitted-P5	Super Coal-5	All Sub.	14,700 MT	Rs. 63,428/MT
6.	Copper Delay Detonator-2.5M	Solar Copper Delay Detonator	All Sub.	42,520 KN	Rs. 8,900/KN
7.	Cast Booster-PETN	Solar Cast-P	All Sub.	1,725 MT	2,49,000/MT

Subsidiary wise distribution

SL	Item	Unit	ECL	BCCL	CCL	WCL	SECL	MCL	NCL	NEC	Total
1.	P1	MT	14	24	-	360	753	-	-	-	1,151
2.	P3	MT	1,020	-	35	900	-	-	-	-	1,955
3.	P5	MT	2,238	1,572	686	2,322	6,806	1,073	-	3	14,700
4.	CDD 2.5 M	KN	6,545	4,095	1,576	6,468	17,124	6,702	-	10	42,520
5.	Cast Booster PETN	MT	53	167	76	160	319	252	698	-	1,725



8. The appellant claims that it has been supplying the explosives to the subsidiaries of Coal India as per the rate fixed in the running contract. According to the appellant, where the appellant has supplied the explosives from the State of Maharashtra to other States against a direct indent on the Nagpur Unit, the appellant discharged CST on the same while filing the return. However, where the appellant has stock transferred the explosives to its depots outside the State of Maharashtra, VAT has been discharged on the same in the transferee States.

9. The Deputy Commissioner of Sales Tax, Maharashtra treated the transfers from the State of Maharashtra to the various depots outside the State of Maharashtra to be pre-determined sales instead of branch transfers as alleged by the appellant and, therefore, held that the appellant would be liable to central sales tax in the State of Maharashtra as inter-State sales had taken place. Accordingly, an assessment order dated 31.03.2017 was passed disallowing the branch transfer claimed by the appellant.

10. It is against this order of the Deputy Commissioner that the appellant had filed appeals before the Sales Tax Tribunal. By a common order dated 28.04.2023, the Sales Tax Tribunal dismissed the appeals holding the transaction to be pre-determined sales from the State of Maharashtra to the State of West Bengal and the State of Jharkhand.

11. The present six appeals have been filed to assail the said order of the Sales Tax Tribunal.

12. The relevant portions of the order passed by the Sales Tax Tribunal are reproduced below :

**"13. Ld. Advocate Rahul Thakar has cited several authorities of the Supreme Court in support of their respective contentions.**

- a. M/s. Speech & Software Technologies (India) Pvt. Ltd. V/s. Neos Interactive Ltd. (2009 1 SCC 475).
- b. R.V. Demers (1900 AC 103)
- c. Secretary of State V/s. Madho Ram (AIR 1929 Lah 114)
- d. Chatturbhuj Vithaldas Jassani V/s. Moreswar Parashram And Others (1954 SCR 817).
- e. Union Of India V/s. Maddala Thatiah (1964 SCR 3774)
- f. State of Andhra Pradesh V/s Coromandel Paints & Chemical Ltd (1995 98 STC 82)
- g. Central Distillery & Breweries Ltd. V/s Commissioner of Trade Tax, U.P., Lucknow (1999 115STC 296 All))

**However, this case, in our opinion, turns on its own peculiar facts and is completely covered by the Supreme Court's judgment in IDL Chemical Vs. State of Orissa (2007) 14 SCC 386.** According to the counsel for the appellant the facts of **IDL Chemical** are distinguishable from the facts of this case. We do not agree. We shall now go to **IDL Chemical** to show how it completely covers the present case.

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**15. The striking similarities between IDL Chemical and the present case could now be noted.** In IDL Chemical the sale of goods from IDL Chemical's factory in Orissa to CIL's subsidiaries was through its depots in other States in pursuance of purchase order dated 24.09.1976. In this case the sale of goods from the appellant's factory in Maharashtra to CIL's subsidiaries in other States is through its branches in other States in pursuance of Running Contract dated 14/03/2012 & 30/03/2015. In **IDL Chemical** all the Managers of the collieries in three States had to place order with the consignment agents of **IDL Chemical** from the depots of **IDL Chemical**. Though each colliery had to give its indents for purchase of explosives detonators etc. as per the requirement, the fixed quantity had been given in the schedule appended to the purchase order. In the present case, Running Contract quantity is mentioned at Annexure-1 to the

Running Contract. The monthly allocation has to be placed by the respective subsidiary Companies individually within their share of Running Contract Quantity as indicated at Annexure-1 on the appellant's branches. Supplies are to be strictly governed by the actual allocation order to be placed by the subsidiary companies in every month against their specific approved indents only. Just as in IDL Chemical, in this case the collieries have to raise indents on branches and then only the goods would be dispatched as indicated in Annexure-1 IDL Chemical had issued a purchase order for 5 years to the apex body CIL. In this case, the appellant has entered into a Running Contract for 3 years with the apex body CIL initially & later extended R.C. **In IDL Chemical**, there was no independent contract of the appellant with subsidiaries of CIL. Similarly here there is no independent contract of the appellant with subsidiaries of CIL. In IDL Chemical, price was fixed in the purchase order and there was a price variation clause. In the Running Contract of this case also the price is fixed and there is a price variation clause. In **IDL Chemical** as well as in this case dispatch of goods is made when indents are raised.

**In the above circumstances, we have no hesitation in holding that just as in IDL Chemical in this case the indents placed by the collieries were simple follow up action of the Running Contract dated 14/03/2012 & 30/03/2015 and the branches acted as conduit pipe between seller and buyer.**

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**21. Thus, in the instant case, even though the appellant has complied with the provisions under sub section 1 of section 6A of the CST Act and discharged the burden to prove that, there is transfer of goods from one state to another. But, as per the provision of section 6A, Assessing Authority made relevant inquiries relating to the claim made under sub section 1 and came to conclusion that, there is movement of goods from one state to another state which occasioned as per the running**

**contract executed on 19.10.2012 & 30.03.2015. In our considered opinion, facts of the present case are exactly identical as those are in the Hon'ble Supreme Court's judgment in case of M/s IDL Chemical Ltd Vs. State of Orissa decided on 16.11.2007, Civil Appeal No. 5272 of 2007. It is also seen that Central Sales Tax Appellate Authority, New Delhi in its judgment dated 27.06.2019 in appellants own case in Appeal No. CST/2009-10/2017 & Appeal No. CST/26/2017, held that the same transactions are nothing but inter-state sale for the period 2009-10 & 2010-11. Thus, orders passed in first Appeals by this Tribunal for periods 2009-10 & 2010-11 are confirmed by CST AA (Central Sale Tax Appellate Authority).**

**In view of the above, we are of the opinion that the transactions involved constitute inter-state sales.**

Therefore, we find no substance in the appeals.

Accordingly, we proceed to pass the following order.

**ORDER**

1. The VAT Appeal No. 361 of 2017, VAT Appeal No. 01 of 2018, VAT SA NO. 01 of 2020, VAT SA No. 02 of 2020 & VAT SA No. 12 of 2022 are dismissed.
2. The VAT Appeal No.11 of 2019 for period 2014-15 is partly allowed to the extent of disallowance of branch transfer of raw material. The branch transfer of raw material is allowed in this appeal for the period 2014-15. However, the branch transfer of the finished goods is disallowed u/s 6A of the CST Act, 1956. The Assessing Authority is directed to rework the tax liability for the period 2014-15.
3. No order as to cost."

**(emphasis supplied)**

13. The Sales Tax Tribunal held that the issue stood covered by the judgment of the Supreme Court in **IDL Chemicals Limited vs State of Orissa**<sup>4</sup> and also by an earlier decision of the Central Sales Tax Appellate Authority dated 27.06.2019 in the own case of the appellant in Appeal No(s) – CST/9-10/2017 and Appeal No. CST/26/2017 for the period 2009-10 and 2010-11. The Sales Tax Tribunal, accordingly, held the transaction to constitute an inter-State sale.

14. According to the learned counsel for the appellant, the issue involved in this appeal is covered by a decision of this Tribunal in **Keltech Energies Ltd. vs The State of Maharashtra**<sup>5</sup>. Learned counsel pointed out that the running contract between Keltech Energies (the appellant in the decided appeal) and Coal India is almost similar to the running contract in the present appeal. Keltech Energies was also engaged in the manufacture and sale of explosives and had a manufacturing unit at Nagpur. The products manufactured at the said unit were packaged explosives which are controlled substances. The issue that arose for consideration in the appeal was as to whether the movement of the packaged explosives from the manufacturing unit of the appellant at Nagpur in the State of Maharashtra to the branch offices/depots of the appellant in the State of Jharkhand and the State of West Bengal had resulted in a sale taking place during the course of inter-State trade or commerce pursuant to the running contract entered between Coal India and Keltech Energies or whether it was a case of branch transfer of the goods by Keltech Energies to its depots/branch offices in the State of Jharkhand and the State of West Bengal. Reliance was placed by the State of Maharashtra on the decision of the Supreme Court in **IDL**

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4. (2007) 14 SCC 386

5. CST Appeal No. 01 of 2018 decided on 08.07.2024

**Chemicals** and the earlier decision of the Central Sales Tax Appellate Authority in **Solar Industries** in the case of the present appellant in CST Appeal Nos. 09-10/2017 and CST Appeal No. 26/2017 decided on 27.06.2019 wherein Coal India had also entered into a running contract dated 28.11.2007 with the appellant. The Central Sales Tax Appellate Authority had held that all transfer of goods/explosives from the State of Maharashtra to the branches/depots of Solar Industries in other States were inter-State sale. While deciding the appeal filed by Keltech Energies, this Tribunal did not accept the view expressed by the Sales Tax Appellate Authority that it was a case of inter-State sale and held that it was a case of branch transfer of goods by the appellant to its depots in the State of West Bengal and the State of Jharkhand. The relevant portion of the decision of this Tribunal in **Keltech Energies** is as follows:

**"23. The Running Contract dated 28.11.2008 would not amount to a contract of sale as it does not obligate the subsidiaries of Coal India to purchase the explosives from the appellant or obligate the appellant to supply explosives. It is merely an agreement between the parties to the effect that they may do business in the future under certain terms and conditions. It is a contract which merely establishes the prices at which the goods may be traded at, if they do happen to be traded. It only provides a limit for the maximum quantity of explosives that can be indented by each subsidiary and the rates at which the same is to be supplied. Therefore, if subsidiaries of Coal India do not place indents on the appellant, the appellant cannot sue Coal India for damages because the Running Contract has not been breached.**

**24.** In common or industrial parlance, a Running Contract is also known as a rate contract. A 'rate contract' is a contract which only determines the prices at which goods are bought and sold

between the contracting parties. A rate contract does not itself convey property or agree to convey property on a future date. **The Running Contract entered into between the appellant and Coal India would, therefore, be in the nature of a rate contract."**

**(emphasis supplied)**

15. This Tribunal also referred to various judgments cited by the learned counsel for Keltech Energies, including that of the Karnataka High Court in **BASF India Ltd. vs. State of Karnataka and ors.**<sup>6</sup> and held :

"**37.** In **IDL Chemicals**, the Supreme Court concluded that the contract was a contract of sale based on the fixed quantities of the explosives that were to be sold by **IDL Chemicals** to Coal India and were enumerated in the contract itself; the contract placed an obligation on the collieries of Coal India to purchase all their explosives from **IDL Chemicals** only; the collieries could only purchase explosives as per the fixed quantities in the contract and not on a rolling basis as per their requirement; and the insurance and freight of the explosives transported was borne by Coal India. The Supreme Court, therefore, concluded that the contract amounted to a contract of sale.

**38. The Running Contract involved in this appeal is different from the contract in IDL Chemicals, as would be apparent from the following facts:**

- (a)** The Running Contract does not mention the fixed quantities of explosives that are to be sold by the appellant or the fixed quantities of explosives that may be purchased by the subsidiaries of Coal India;
- (b)** There is no obligation on the subsidiaries of Coal India to purchase explosives only from the appellant. In fact, Coal India was simultaneously engaged in multiple Running Contracts with multiple manufacturers of explosives in the relevant period;

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**6. 2022 (11) TMI 434**

- (c) The subsidiaries of Coal India purchased explosives on the basis of their actual requirements and not on the basis of any fixed quantities specified in the Running Contract;
- (d) The freight on the transport of the goods was borne by the appellant and not by Coal India. The said goods were not insured and were transported on a risk basis;
- (e) The appellant conducted sales to customers other than subsidiaries of Coal India. This clearly evidences the fact that the appellant has retained the right to divert the explosives and sell it to other customers;
- (f) The goods were never earmarked for any customer at the time when the truck left the Nagpur Unit. The goods are standardized goods (and not customized goods) and appropriation of the goods to the contract occurs only when the appellant separates out and earmarks the goods for a specific customer at its depots in the destination States;
- (g) It is clear that the appellant is stock-transferring the goods to its depots on the basis of the internal forecasts for replenishing the stocks of its depots. Subsequently, the goods are transported from the depot of the appellant in terms of the indents received from subsidiaries of Coal India;
- (h) There is no one-to-one correlation between the goods despatched from the Nagpur Unit and goods sold from the depots to the subsidiaries of Coal India. This clearly shows a break in the movement; and
- (i) The transactions are clearly stock transfers and the movements of goods is not occasioned by pre-determined contract of sale.

**39. The judgment of the Supreme Court in IDL Chemicals would, therefore, not be applicable in the present case. On the other hand, the judgments of the Supreme Court Chaturbhuj Vithaldas and Maddala Thathiah, on which reliance has been placed by the learned counsel for the appellant, would apply to the facts of the present case.**

**40. Ms. Rama Ahluwalia, learned counsel appearing for the State of Maharashtra which has been impleaded as respondent no. 1 heavily relied upon the earlier decision of the Central Sales Tax Appellate Authority in Solar**



**Industries, in which the facts are almost identical to the facts involved in BASF India. It needs to be noted that both Solar Industries and BASF India were decided by the same bench of the Central Sales Tax Appellate Authority on the same date i.e. 27.06.2019. They dealt with same issue namely whether the pre-existing rate contract occasioned inter-state movement of goods or it was merely a standing offer. As noticed above, the decision of the Appellate Authority in BASF India was challenged before the Karnataka High Court and the Karnataka High Court set aside the decision of the Appellate Authority and held that the pre-existing rate contract was merely a standing offer and it did not occasion inter-state movement of goods. Learned counsel for the State of Maharashtra is, therefore, not justified in placing reliance upon the decision of the Appellate Authority in Solar Industries.**

**41. The Sales Tax Tribunal was, in such circumstances, not justified in holding that the supply of explosives to Coal India and its subsidiaries were made under the Running Contract dated 28.11.2008. The Running Contract, as noticed above, was merely a standing offer. The Sales Tax Tribunal was also not justified in rejecting the contention advanced by the appellant that each subsidiary of Coal India had to issue indent for supply of the explosives as per its requirement for the reason that the schedule to the Running Contract mentions the quantities.** The quantities mentioned in the schedule were tentative and it has been demonstrated by the appellant that the actual quantities supplied were far lesser than indicated in the schedule to the Running Contract. The Sales Tax Tribunal also held that all subsidiaries of Coal India were under an obligation to purchase the goods from the appellant or its branches situated in the respective States. The Sales Tax Tribunal held that each subsidiary of Coal India had been given the quantities of explosives and accessories to be purchased from the appellant only at the fixed price.

This finding is clearly erroneous. The subsidiaries of Coal India had the option to purchase the goods according to their requirement from any one of the five Running Contract Holders. The Sales Tax Tribunal also fell in error in assuming that it was the contention of the appellant that supply of goods in accordance with the indents and the Running Contract would be an agreement to sell, for it was the contention of the appellant that the Running Contract was neither a sale or an agreement to sell and was merely a standing offer.

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**43. It, therefore, follows from the aforesaid discussion that the appellant is merely stock transferring the goods to its depots and it is only when the subsidiaries of Coal India place indents on the appellant and the goods are supplied by the appellant that the sale takes place. The sale does not take place on the basis of the Running Contract dated 28.11.2008. It cannot, therefore, be said that the movement of packaged explosives from the manufacturing unit of the appellant at Nagpur in the State of Maharashtra to the depots of the appellant in the State of Jharkhand and the State of West Bengal has resulted in a sale taking place during the course of inter-state trade or commerce. It is clearly a case of branch transfer of goods by the appellant to its depots in the States of Jharkhand and West Bengal.**

**44.** The impugned order dated 26.09.2017 passed by the Maharashtra Sales Tax Tribunal, therefore, cannot be sustained and is set aside. The appeal is, accordingly, allowed.”

**(emphasis supplied)**

16. The facts of the present case are similar to the facts of **Keltech Energies** decided by this Tribunal on 08.07.2024 and, therefore, the

decision rendered by this Tribunal in **Keltech Energies** would govern the issue to be decided in this appeal.

17. As noticed above, this Tribunal while deciding **Keltech Energies** had considered the decision of the Tribunal in **IDL Chemicals** and the decision of the Central Sales Tax Appellate Authority in the matter of the appellant in **Solar Industries**. The Tribunal found that the contract involved in the appeal filed by **Keltech Energies** and **IDL Chemicals** were different. Reliance placed by the learned counsel for the State of Maharashtra on the decision of the Central Sales Tax Appellate Authority in **Solar Industries** was found to be not applicable because the Karnataka High Court in **BASF India** had set aside the order of the Central Sales Tax Appellate Authority. It needs to be noted that both **Solar Industries** and **BASF India** were decided on the same date by the Central Sales Tax Appellate Authority and dealt with identical issues. The Tribunal in **Keltech Energies** clearly held that a sale had not taken place on the basis of the running contract and, therefore, the movement of the packaged explosives from the manufacturing unit of Keltech Energies at Nagpur in the State of Maharashtra to as branch offices/depots in the State of Jharkhand and the State of West Bengal did not result in a sale having been taken place during the course of inter-State trade or commerce. This Tribunal held that it was a case of branch transfer of goods by Keltech Energies to its depots in the State of Jharkhand and the State of West Bengal.

18. Learned counsel for the State of Maharashtra has made the same submissions as were advanced by the State of Maharashtra in **Keltech Energies** and reliance was again placed on the judgment of the Supreme Court in **IDL Chemicals** and the decision of the Central Sales Tax Appellate Authority in **Solar Industries**. The judgment of the Supreme

Court in **IDL Chemicals** was found to be not applicable and the view expressed by the Central Sales Tax Appellate Authority in **Solar Industries** had been set aside by the Karnataka High Court in **BASF India**. The Sales Tax Tribunal had also placed reliance on these two decisions to arrive at a conclusion that inter-State sale had taken place.

19. It is, therefore, not possible to sustain the order dated 28.04.2023 passed by the Sales Tax Tribunal. It is, accordingly, set aside and all the six appeals are allowed.

(Order pronounced on **08.08.2025**)

**(JUSTICE DILIP GUPTA)**  
**PRESIDENT**

**(P.V. SUBBA RAO)**  
**MEMBER (TECHNICAL)**