


ST 2161 - SALES TAX : RAILWAY ROLLING STOCK

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TAXATION RULING NO. ST 2161

SALES TAX : RAILWAY ROLLING STOCK

F.O.I. EMBARGO: May Be Released

REF H.O. REF: 85/3413-6 DATE OF EFFECT: IMMEDIATE
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F.O.I. INDEX DETAIL

REFERENCE NO:	SUBJECT REFS:	LEGISLAT. REFS:
I 1199310	RAILWAY ROLLING STOCK; PUBLIC TRANSPORT AUTHORITY	SALES TAX (EXEMPTIONS AND CLASSIFICATIONS) ACT; ITEM 77, FIRST SCHEDULE

FACTS

Under an agreement with a State Government, a company agreed to provide such railway sidings, shunting loops, spurs and other connections to the state rail system as was necessary for the transport of alumina from the company's refinery to a seaport. The sidings, shunting loops, etc. remained at all times the property of the company. The company also agreed to provide all necessary rolling stock for the transport of the alumina. It purchased the rolling stock from the State Railways Commission. The rolling stock was made available to the Railways Commission to use in transporting the alumina. On cessation of the agreement the property in the rolling stock is to vest in the State.

2. The company is responsible for the loading of alumina onto the railway wagons at the refinery and the unloading of the wagons at the port. These activities are carried out on railway lines and sidings owned by the company using the company's staff to operate its own loading and unloading equipment.

3. The State Rail Commission is responsible for providing locomotives and brake vans, etc. to operate sufficient trains to transport products as required by the company. It receives a freight fee per ton mile.

RULING

4. Item 77, First Schedule, exempts goods for use by public transport authorities exclusively in or exclusively in connexion with, the establishment, conduct or maintenance of transport services. The particular State Railway Commission is a public transport authority within the meaning of item 77. The item does not require that the goods in question be for the exclusive use of the public transport authority. What it does require is that the use to which the goods are put by the public transport authority is exclusively in or exclusively in connexion with the establishment, conduct or maintenance of transport services.

5. Although it may be said that there are two users of the rolling stock in this instance, the company in loading and unloading its products and the public transport authority in transporting the wagons between the refinery and the port, the whole object of the acquisition of the rolling stock was the

transport of the company's product. It is the public transport authority which does the actual transporting - it uses the rolling stock exclusively in connexion with the conduct of its transport services.

6. Exemption under item 77 applies to the rolling stock. The fact that the public transport authority may not be the exclusive user of the rolling stock does not affect the case for exemption.

COMMISSIONER OF TAXATION
1 August 1985

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