

VATR 67

Facts

B is engaged in the unloading, bagging and distribution of cement. For the purposes of the cement unloading operation, it uses a cement unloading structure called the 'Kovako'. The 'Kovako' is equipped with 4 engines. Two of the engines are used to run the compressors, the third is used to run a rotary lobe vacuum blower and the fourth is used for the hydraulic movement of the vacuum arm and the vacuum nozzle. These engines are not used to propel the 'Kovako'. The 'Kovako' is stationary when it is in operation.

The 'Kovako' has to be positioned on the quay for the cement unloading process and after completion of the operation it is removed from the quay. To enable the 'Kovako' to be moved from/to the quay, it is fitted with wheels. However, it does not have its own means of propulsion and hence, requires the assistance of two machines, the 'Chargeuse' and the 'Manitou', for its movement from/to the quay. Also, the 'Kovako' has to be repositioned along the quay, with the assistance of the two machines, to have access to the various holds of the ship.

Point at issue:

Whether the company can be allowed to claim credit for input tax suffered in respect of gas oils used by the engines fitted on the 'Kovako'.

Ruling:

On the basis of facts submitted, the engines of the 'Kovako' are not stationary engines. Hence, no input tax can be allowed for gas oils used in respect of the engines by virtue of the provisions of section 21(2)(e)(iii) of the VAT Act.