

GOVERNMENT OF ASSAM  
OFFICE OF THE COMMISSIONER OF TAXES::ASSAM::GUWAHATI

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**ORDER**

Dated Dispur, the 30th April, 2015.

No.CTS-25/2012/115:- The petitioner filed a petition seeking clarification regarding whether Site Work Portion involving only labor and services is liable to tax under the AVAT Act, 03.

The fact as stated by the petitioner, M/s Grip Engineers Pvt. Ltd, a registered firm in the state of Haryana, is that the petitioner has been awarded five nos. of purchase orders for supply and site works of cranes by M/s Brahmaputra Cracker & Polymer Limited (BCPL), Lepetkatta, Assam. The orders received are indivisible orders.

That in pursuance of the said purchase orders, M/s BCPL as purchaser and consignee provided the petitioner with the requisite nos. of road permits for dispatching the Cranes from Faridabad. Tax invoices were raised on BCPL from Faridabad charging in addition to other taxes like excise duty etc 2% CST as the movement of cranes took place in pursuance of respective purchase orders as per provisions of section 3(a) of the CST Act. The petitioner has already received payment for the said tax invoices.

After execution of the supply part of all the five purchase orders, the petitioner started installation and erection of the cranes as per specification at BCPL site and duly executed the site work portion which mainly consisted of assembling, erection and installation of supplied cranes.

On completion of the work, the petitioner submitted his bills for payment to BCPL who asked them to get registered under the AVAT Act for getting of such bills after deduction of tax u/s 47 of AVAT Act. The petitioner has mentioned that their company has executed same type of site works under purchase orders with same terms and conditions and never got registered under local VAT Authorities of other states.

Perused the petitioner's prayer. I have also given my anxious consideration to the submission of the petitioner for not obtaining registration and not paying tax under the AVAT Act.

After perusal of the petitioner's petition, I am of the firm opinion that the petitioner's business contract with BCPL though indivisible consist of two components. The supply of cranes by the petitioner to BCPL is interstate sale by the petitioner. For the purchase of cranes, BCPL obtained road permits and also issued C forms to the petitioner for claiming the benefit of concessional rate of tax. Since, BCPL has acquired this material for own use in manufacturing process, and there is no local sale of the said material, therefore VAT is not applicable. However, BCPL being importer of the specified goods is liable to pay entry tax @ 2% on cranes.

Now, regarding the second component of the transaction, if during installation and erection of cranes, if the petitioner M/S Grip Engineers has done any kind of civil foundation works involving transfer of property in goods like cement, steel, chips, sand and bricks etc, the petitioner will be liable to pay tax on material value. Otherwise if such installation does not involve any kind of material, in such case the consideration relating to installation will not attract tax under VAT.

With the above observation, the petitioner's prayer is disposed off with the clarification that entry tax is payable by BCPL on the cranes purchased by them. VAT is payable by the petitioner only if there is any kind of civil foundation works executed by him involving transfer of property in goods like cement, steel, chips, sand and bricks etc.

Sd/-  
(Dr. Ravi Kota, IAS)  
Commissioner of Taxes, Assam  
Guwahati

Memo No. CTS-25/2012/115-A

Dated Dispur, the..11 th May, 2015.

Copy to:-

1. The Principal Secretary to the Government of Assam, Finance Department, Dispur for favour of kind information.
2. The Additional Commissioners of Taxes/ Joint Commissioners of Taxes (All), Head Office for information.
3. The Deputy Commissioner of Taxes , (All) for information.
4. The Assistant Commissioner of Taxes, (All) for information.
5. M/s Grip Engineers Pvt. Ltd., Burahazer, Konwar Gaon, Vill-Barbaruah, Dist.-Dibrugarh, Pin-786007 for information.

(A. Choudhury)  
Joint Commissioner of Taxes, Assam,  
Dispur, Guwahati-6.

MAY 2 2015