

GOVERNMENT OF ASSAM  
OFFICE OF THE COMMISSIONER OF TAXES :: :: ASSAM  
DISPUR, GUWAHATI-781006

ORDER

Dated Dispur, the 14<sup>th</sup> June, 2017

No.CTS-84/2015/138: The petitioner, M/s. DYNA TBS PVT. LTD, filed a petition under section 105 of AVAT Act, 2003, seeking a clarification under the Assam Entry Tax Act, 2008 and liability on work contract under Assam Value Added Tax Act, 2003. The queries raised by the petitioner, in verbatim reproduced below:-

- a) Whether Bare Galvalume/Pre Painted Galvalume/Alu Zinc Steel Coil is taxable or not under the Assam Entry Tax Act, 2008.
- b) As Bare Galvalume/Pre Painted Galvalume/Alu Zinc Steel Coil being different with Galvanised steel coil, should we take registration under Assam Entry Tax Act, 2008 for procuring the same raw material through inter-State purchase.
- c) As our product being a customized one, not easily marketable (cannot readily be sold out to others in market) and sale price being inclusive of material and labour cost of installation, whether WCT or VAT which is applicable for finish product sale.
- d) If WCT or VAT is charged or paid on sales invoice for finish product, should be pay the entry tax for procurement of raw materials (Galvalume/Pre Painted Galvalume/Alu Zinc Steel Coil) through which the finish product is manufactured.
- e) What will be the WCT rate and sales value (if there is any abatement on sale value, please mention) for raising sales invoice under composite WCT scheme.
- f) Whether WCT will be charged after service tax or not in the sales invoice.”

Perused the matter. Mr. Sukanta Das, General Manager, Finance appeared and explained that they procure steel coil of different varieties like bare galvalume, pre-painted galvalume, alu zinc etc. from inter-State suppliers or from local suppliers. From such steel coils, with the use of curved profile roll forming machine, tussless curved profiled roofing sheet are made in accordance with the required specifications and size given by each of the customers. Because of the huge size of such curved roofing sheet, such process is normally required to be carried out at the site of the customers and for this purpose required machineries are also moved to work site and with the use of crane and seaming machine, the customized roofing sheet is installed/erected.

It appears that the activity undertaken by the petitioner falls under the definition of 'works contract' by theory of accretion and as such, it would attract tax liability under the Assam VAT Act, 2003. Hence, as per provision of section 3(2)(i) of the Assam Entry Tax Act, 2008, on import/inter-State purchase of the materials, there will be no application of entry tax provided VAT is paid on such works contract (deemed sales) and hence there is no need of having any registration under the Assam Entry Tax Act, 2008.

A works contract involves two elements, viz., (i) the transfer of property in goods; and (ii) supply of labour and services. The material component involving transfer of ownership can be taxed by the State. There are **two method of taxation of works contract under AVAT Act**. A contractor is normally liable to pay 15% tax on the **taxable turnover** of goods, that is, after excluding labour component and other deductions as per section 11(c) read with rule 10 from gross turnover which is the composite/consolidated price consideration for both material and labour component. **Alternatively**, a contractor can opt for composition scheme (by registering under GRN) and pay 5% lump sum tax of the total

aggregate value of works contract without any deduction for labour and other charges and without any distinction between declared and other goods. No input tax credit is available under this composition scheme. If someone opts for composition scheme, in that case no deduction will be admissible of whatsoever nature including service tax.

If the dealer is registered under TIN, it is liable for payment of VAT @ 15% as per provision of section 10 of the AVAT Act read with entry at serial No. 2 of Fifth Schedule subject to admissible deductions available to works contract such as labour and other allowable charges u/s 11 of the AVAT Act read with Rule 10 of the Assam VAT Rules, 2005.

Also, it is clarified that if the dealer is registered under GRN and has opted for payment of tax under "Composition Scheme for Works Contract", it shall be liable to pay VAT @ 5% as per Government Notification No FTX.55/2005/Pt/158 dated 31/03/2012.

Accordingly, the matter stands clarified.


Sd/-  
(Anurag Goel, IAS)  
Commissioner of Taxes, Assam,  
Dispur, Guwahati-6.

Memo No.CTS-84/2015/139-A

Dated Dispur, the 17 July, 2017.

Copy to:

1. The Commissioner & Secretary to The Government of Assam, Finance Department, Dispur for favour of kind information.
2. The Additional commissioner of Taxes, Assam(All)/Joint Commissioner of Taxes, Assam (All) for information.
3. The Deputy Commissioner of Taxes (All) for information.
4. The Assistant Commissioner of Taxes(All)/ Superintendent of Taxes(All) for information.
5. M/s. DYNA TBS PVT. LTD., Anil Plaza, 3<sup>rd</sup> Floor, G.S.Road, Guwahati-781005 for information.

  
(R. Agarwala)  
Joint Commissioner of Taxes, Assam,  
Dispur, Guwahati-6.