

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

NO. CTS-78/2007/191

Dated Dispur, the 9th July, 2009

Sub: Clarification as to whether “Nycil Powder” is cosmetic or medical product.

Extract of the Order

As per entry at Sl. No. 21 of the Fourth Schedule appended to the Assam Value Added Tax Act, 2003 drugs and medicines are taxable @4% on MRP basis. There is an explanation attached with the entry which states that “the expression drugs and medicines shall not include products capable of being used as cosmetics and toilet preparation including tooth paste, tooth powder, cosmetic toilets articles and soaps”. Since, the explanation is attached along with the entry; it is clear that the legislature intended that drugs and medicines which are capable of being used as cosmetics and toilet preparation are to be excluded from this entry. “Nycil Powder” though drugs and medicines can be used as toilet preparation. A person can apply this item as toilet preparation. Therefore, it is clarified that the item is not covered under entry at Sl. No. of the Fourth Schedule and since, it is not covered under any other entry of First, Second, Third and Fourth Schedule, therefore, it is covered under entry at Sl. No. 1 of the Fifth Schedule and taxable 12.5%.

Further, it may be clarified that the tax is levied as per explanation to the entry to the Sl. No. 21 of the Fourth Schedule and not through clarification. Clarification is only nature of interpretation of the expressed provision. Hence, the liability of tax has come not through the clarification but through expressed provision in the entry.

Sd/- Sanjay Lohiya
Commissioner of Taxes, Assam
Guwahati