

GOVERNMENT OF ASSAM
OFFICE OF THE COMMISSIONER OF TAXES :: ASSAM :: KARBHAWAN
DISPUR, GUWAHATI.

ORDER

Dated Dispur, the 6th May/2010.

No.CTS-6/2009/199 : The Assistant Commissioner of Taxes, Dibrugarh sought clarification on rates of tax on certain items namely, Dabur Lal Tail, Dabur Mritsanjivani Sura, Odomos cream and gripe water manufactured by M/s Dabur India Ltd. Notice was issued to the dealer in this regard.

Sri Brojesh Bhattacharjee, Authorised representative and Sri Tapan Bardhan appeared on behalf of the Company. The dealer was heard in this regard. The dealer has submitted written submission in this regard. The dealer contends that all 4 items are manufactured under drug license issued under Drug and Cosmetics Act/1940 and hence are liable to be taxed at the rate of 5% as per entry at serial No. 111 of Part-A of the Second Schedule with effect from 31st October, 2009 and at the rate of 4% on MRP as per entry at serial No. 21 of the Fourth Schedule of Assam Value Added Tax Act, 2003 before 31st October, 2009. Perused the copies of drug licences for these 4 items. All the 4 items have drug licenses for manufacture as ayurvedic medicines. As such from 31st October, 2009, these items shall be covered under entry at serial No. 111 of Part-A of Second Schedule and shall be taxable at the rate of 5%.

However, before 31st October, the scenario was different. Then, as per entry at serial No.21 of the Fourth Schedule of Assam Value Added Tax Act, 2003, drugs and medicines were taxable at the rate of 4% on MRP basis. There was 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 toothpaste, toothpowder, cosmetics, toilet 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.

1. Dabur Lal Tail:

The item can be used as toilet preparation for massage of babies. Therefore, this item is not covered under entry at serial No.21 of Fourth Schedule and since it is not covered under any other entry of First,

