

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

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ORDER

Dated Dispur, the 15<sup>th</sup> May, 2010

No. CTS-16/2009/181: M/s. Tax Bar Association, Guwahati filed petition seeking clarification on the following three issues—

(1) As per the Assam Gazette Extra Ordinary No. 346 and 347 both dated 31.10.2009 issued under Memo No. FTX.55/2005/Pt-III/118 and No. FTX.55/2005/Pt-V/194 respectively dated 31.10.2009 it is seen that the same are made applicable w.e.f. 31.10.2009.

The notifications were issued late in evening on 31/10/09, by which time the dealers had already effected part of the sales for the day. As such it is not practicable for them to apply the new rates on this sales. It is, therefore, presumed that the new rates shall take effect from the next day i.e. 01/11/2009.

(2) As per the Assam Gazette Extra Ordinary No. 347 dated 31.10.2009 issued under Memo No. FTX.55/2005/Pt-V/194 dated 31/10/09 the item "Drugs & Medicines" has been inserted in the Second Schedule of Part A at Sl. No. 111 attached to the Act.

The items were previously taxable @ 4% on MRP under the Fourth Schedule. As such a logical question which arises is the fate of the tax paid stock in hand as on 31.10.09. Whether the dealers are liable to claim input tax on the said stock or is any other alternative method thought of.

(3) The items declared goods as specified under section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956) have now been inserted at sl. No. 6 of the Third Schedule attached the Assam Value Added Tax Act, 2003. the item as appearing at sl. No. 23 of the second Schedule was previously attached with the following words "if such goods are not mentioned in this Schedule or any other Schedule". But the said wording has now been removed. As such now a confusion has arisen about declared goods which are also mentioned elsewhere in the Schedule/s.

Out of the above issues, second issue was addressed vide Government Notification No. FTX. FTX.55/2005/Pt- V/227 dated 11.03.2010 while third issue was already clarified vide this office order No. CTS-7/2009/94 dated 05.11.2009

Regarding issue No. 1, it was clarified that clarification cannot be issued at this level as the notification were issued by Government. So the matter was referred to the Government. Now, Government vide letter No. FTX.55/2005/Pt-V/231 dated 30.04.2010 has given approval for issuance of clarification under section 105 of the Assam Value Added Tax Act, 2003.

It is indeed a fact that the Gazette Notifications under reference were received from Government Press in late afternoon on 31.12.2009 and were put on official website on the same day. Therefore, matter of already executed part of sales at 12.5% before issue of the said notifications needs to be addressed. It is, therefore, clarified that tax will be paid @12.5% for

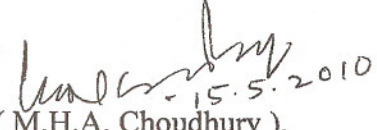
those sales for which tax was realized @12.5% while tax will be paid @13.5% for these sales for which tax was realized @13.5%. This shall apply for 31.10.2009 only.

Sd/-Sanjay Lohiya,  
Commissioner of Taxes, Assam,  
Guwahati.

Memo No. CTS-16/2009/181-A  
Copy to:-

Dated Dispur, the 17<sup>th</sup> May, 2010

1. The Principal Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information of the Government.
2. The Addl. Commissioners of Taxes/Joint Commissioners of Taxes (All) for information.
3. The Deputy Commissioners of Taxes (All) for information.
4. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information.
5. M/s. Tax Bar Association, Guwahati for information.

  
15.5.2010  
( M.H.A. Choudhury ),  
Addl. Commissioner of Taxes, Assam,  
Dispur, Guwahati-6.

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