

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

ORDER

Dated Dispur, the 12th July, 2010.

No. CTS-21/2005/153: M/s. BOC India Ltd., BRPL Township, Dhaligaon, Bongaigaon, Assam filed an application under section 105 of the Assam Value Added Tax Act, 2003, seeking clarification as to whether works contract tax is applicable for a contract received by its Office in Kolkata. The issue, in brief, is as follows—

M/s. BOC Ltd., BRPL Township, Dhaligaon is registered under the Assam Sales Tax having GRN and applied for CST Registration No. They have received one Fax of Acceptance from M/s. Numaligarh Refinery Ltd., Assam (NRL) for setting up a Nitrogen Storage & Vaporization System. They submitted that NRL is likely to raise PO in favour of them having the following points:

- 1) NRL would raise a single PO against both supply and services.
- 2) All supply items will be procured from outside Assam with customer's way bill to incur sale in transit.
- 3) CST will be nil against customer's form-C for 6(2)sales.
- 4) WCT is not applicable.
- 5) Service Tax will be charged on service part which is basically nothing but inspection.

Now, they have raised question—

- (1) Whether the above terms are okay or it would attract WCT @4% on total PO?
- (2) Whether they can show the supply part from West Bengal and service part from Assam against single order?

Shri Anupam Majumdar, Officer-Sale Tax (PED) appeared on behalf of the petitioner and placed his submission. He submitted that VAT, CST or WCT is not payable in the above order in view of the fact stated above.

Perused the submission. It appears that petitioner is having GRN and the transaction under question is against a single order of works contract. The "Composition Scheme for works contract" permits a registered dealer of the State who executes works contract, to pay at his option, in lieu of the amount of tax payable by him under the provision of the Act, by way of composition, an amount at the rate of four paise in every rupee of the total aggregate value of the works contract received or receivable by him. Further, as per the Scheme the option once exercised shall be final and cannot be revoked by the dealer during the year. As petitioner has opted for composition under this scheme, he has to pay tax @4% on the total aggregate value of the works contract received or receivable by him.

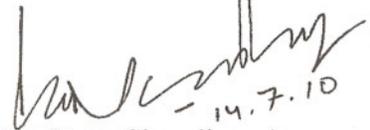
Sd/-Sanjay Lohiya,
Commissioner of Taxes, Assam,
Guwahati.

Memo No. CTS-21/2005/153-A

Dated Dispur, the 14th July, 2010

Copy to:-

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. BOC India Ltd., BRPL Township, Dhaligaon, Bongaigaon, Assam for information.



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