

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

ORDER

Dated Dispur the 17th July, 2010.

No.CTS-28/2008/162 : M/s. Power Grid Corporation of India Ltd., Suwarna Bhawan, House No. 12, G.S. Road, Ulubari, Guwahati-7 filed a petition for review and reconsideration of the order No. CTS-28/2008/116 dtd. 01-02-2010 passed in respect of petition filed by them under section 105 of the Assam Value Added Tax Act, 2003.

Shri V.B. Nagappan , DGM (Finance), and other officials appeared on behalf of the petitioner. They submitted ---

- 1) To consider the application after perusing the same, the documents appended thereof and after hearing the representative to review the earlier order No. 28/2008/116 dtd. 01-02-2010.
- 2) To clarify the reimbursement of the running cost and out of pocket expenses.
- 3) To clarify on the hire charges of vehicles where annual charges are less than Rs.3.00 lakh per annum per vehicle.

Perused the submission and enclosed documents are examined. Accordingly the submission of the petitioner as above are answered as below ---

1) In the contract document, following relevant points are noted ---

- a) Para 2.1.2 : "Duty Hours :.....Use of the vehicle for the owner's personal interest shall not be permitted during the **contract period**.
- b) Para 2.12 : " Maintenance : a).....For the purpose of routine maintenance, vehicle will be released to contractor for a maximum of one day in a month."
- c) Para 2.13 ; " Taxes.....VAT tax shall be deducted at source and deposited with the tax authority. TDS certificate shall accordingly be issued to the party."

From (a) & (b) above , it is clear that the effective control of the vehicles is with Power Grid, therefore same amount to lease contract. Further the petitioner also factored VAT liability agreement as evident in the from (c) above. Therefore it is evident that the transaction under dispute is indeed lease transaction which is exigible to tax @ 13.5% before 03-05-2010 and 5% w,e.f. 03-05-2010. Hence the earlier order stands.

Contd.P/2.

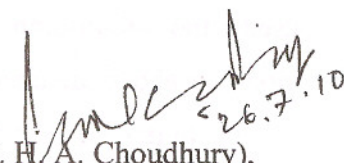
- 2) The tax payable for transaction under consideration shall be on total consideration for the right to use such goods.
- 3) As taxable quantum under section 7 of the Assam Value Added Tax Act, 2003, in relation to a lessor is NIL, therefore tax is payable for the vehicle where annual charge are less than Rs. 3 lakh per annum per vehicle.

Sd/-(Sanjay Lohiya),
Commissioner of Taxes, Assam,
Dispur, Guwahati-6.

Memo No.CTS-28/2008/162 -A
Copy to :-

Dated Dispur, the 30th July,2010.

1. The Principal Secretary to the Govt. of Assam, Finance Department, Dispur, Guwahati - 6 for favour of kind information of the Government.
2. The Addl. Commissioner of Taxes/Joint Commissioners of Taxes (All) for information.
3. The Deputy Commissioner of Taxes (All) for information.
4. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information.
5. M/s. Power Grid Corporation of India Ltd., Suwarna Bhawan, House No. 12, G.S. Road, Ulubari, Guwahati-7for information.


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