

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

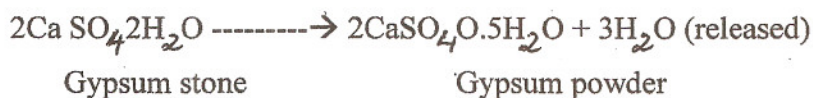
ORDER

Dated Dispur the 30th July, 2010.

No. CTS-71/2007/152 : Superintendent of Taxes, Guwahati Unit-'B' requested to clarify the rate of tax on the item, "Plaster of Paris" dealt in by M/s. Balaji Agency, T.R. Phookan Road, Machkhowa, Guwahati, one of the dealers under his jurisdiction. In order to clarify the rate of tax and in order to give the dealer an opportunity of being heard as per provisions of section 105 of the Assam Value Added Tax Act, 2003, the dealer was asked to appear for a hearing.

Sri N.R. Purohit, Advocate appeared on behalf of the petitioner and filed his submission. He also submitted a copy of the judgment and order of the Hon'ble Allahabad High Court dtd. 07-02-1980 in the case of Mineral Sales Corporation -Vs- Commissioner of Sales Tax, wherein the Hon'ble Court held that minerals obtained from Ore continue to be so even after powdering by mechanical or natural process and no new commercial commodity comes into being. He also submitted that the present issue is covered by the clarification given by the undersigned vide order no. CTS-70/2007/318 dtd. 28-08-2009 wherein it was held that the process of producing soap stone powder from soapstone does not amount to manufacture. He also submitted that the petitioner is importing mineral gypsum powder from Bhutan and selling the same to his customers in the same form. According to him the same is covered by the entry at Sl. 45 of Part-A of the Second Schedule as "Ores and minerals" and is taxable @ 5%.

It is found that mineral gypsum powder is produced by heating gypsum to about 150 c. When gypsum stone is heated, water is released and fine white powder is left. The chemical composition changes on heating.



Gypsum stone

Gypsum powder

When the dry mineral gypsum powder is mixed with water it re-forms into gypsum. Thus mineral gypsum powder is different from gypsum. The item 'mineral gypsum powder' is commonly known as 'Plaster of Paris' which is commonly used as a building material for finishing purpose. Accordingly, Plaster of Paris / mineral gypsum powder will not be covered

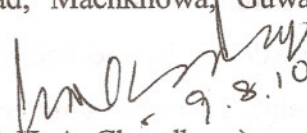
by the entry at Sl. No. 45 of Part-A of the Second Schedule. It will be covered by the entry at Sl. No.1 of the Fifth Schedule and will be taxable @ 13.5%.

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

Memo No. . CTS-71/2007/152 -A
Copy to :-

Dated Dispur, the 9th August, 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.Balaji Agency, T.R. Phookan Road, Machkhowa, Guwahati, for information.


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