

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

ORDER

Dated Dispur, the 5th Jan - 2011
~~Dec/2010.~~

No. CTS-20/2008/172 : M/s ECE Industries Ltd., 53, 1st Floor, Madhabdevpur, Rehabari, Guwahati has filed a petition under Section 105 of the Assam Value Added Tax Act, 2003 seeking clarification on the following issues -

"ECE Industries Ltd., Ghaziabad sells Elevators to its customers located in the State of Assam through its Branch Office located at Guwahati by way of inter-state sales transaction. It sends the goods to the Guwahati Branch, which takes delivery thereof and thereafter delivers it to the premises of the customer. In view of the nature of the transaction involved, whether it is permissible for ECE Elevators, Guwahati to issue Form-61/62 against the import of elevators into the State and to pay entry tax thereon."

Shri Omprakash Agarwala, Chartered Accountant appeared on behalf of the petitioner and placed his submission. He submitted that the transaction as referred above is liable to be subject matter of CST Act, 1956 and no local sales tax is leviable on the said transaction. He submitted that, being the importer of the item at the time of entry of goods, they will be liable to pay entry tax on specified goods.

As per rule 41(9)(ii) of the AVAT Rules, 2005, Form-61 is applicable in case of import of taxable goods into Assam for resale and Form -62 is applicable in case of import of taxable goods into Assam for use in the setting up of industrial unit or for use as raw material in the manufacture of goods or for personal use or consumption. In the instant case, since the petitioner claims that there is an inter-state sale between ECE Industries Ltd., Ghaziabad and the customer in Assam, the customer in Assam will be required to use Form-62 to import elevators into the State and pay entry tax thereon. Since the petitioner i.e. ECE Industries Ltd., Guwahati is neither the reseller nor will it bring goods for its own use or consumption, hence it is not entitled to issue either Form-61 or Form-62.

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

Memo No. CTS-20/2008/172 -A

Dated Guwahati, the 6th January/2011

- Copy to :
1. The Principal Secretary to the Government of Assam, Finance 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 Commissioner of Taxes (All) for information.
 4. The Assistant Commissioner of Taxes, Superintendent of Taxes(all) for information.
 5. M/s ECE Industries Ltd., 53, 1st Floor, Madhabdevpur, Rehabari, Guwahati, for information.

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

M. Deb
06/01/2011