

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

Dated Guwahati, the 21<sup>st</sup> September, 2011

No.CTS-51/2011/31: M/s. Infinity Townships Pvt. Ltd., Anil Plaza, 2<sup>ND</sup> Floor, Near IDBI Bank, G.S.Road, Guwahati-5 filed an application under section 105 of Assam Value Added Tax Act, 2003 seeking clarification on the following points-

- 1) Whether tax under the "Composition Scheme for Real Estate Developer" is payable on receipts of payments or on amounts receivable during a particular period?
- 2) Whether tax under the "Composition Scheme for Real Estate Developer" is payable where payments are not due but have been received in advance during a particular period?

Shri Anupam Chakraborty and Shri Pawan Kumar Agarwal appeared on behalf of the petitioner and filed their submission. They submitted that if the petitioner is liable to make payment of tax on the amount receivable and not on amount actually received during a particular month, then in a circumstance where payments are received in advance is not to be liable to tax unless the stage wise work is completed and bill is raised.

Perused and examined the submission and the provisions of the Scheme. The "Composition Scheme for Real Estate Developer" is a optional composition scheme wherein a registered dealer who transfers property in goods involved in the execution of works contract of construction of flats, dwelling, building and premises and in which transfer along with land or interest underlying the land is envisaged, at his option, can pay tax at the rate of one paise in every rupee of the aggregate amount specified in the agreement entered into between such dealer and the purchaser of flats, dwellings, buildings or premises or value specified for the purpose of stamp duty in respect of said agreement under the Indian stamp (Assam Amendment) Act, 2004. whichever is higher. Therefore from the above, it is clear that any such registered dealer when opts for the Scheme has to pay tax @ 1% at the aggregate amount specified in the agreement or the value specified for the purpose of stamp duty, whichever is higher. Hence any amount received in advance, before starting of the works shall also come under aggregate amount and shall be liable to be taxed @ 1%.

In view of the above position, the query of the petitioner is answered as below-

- 1) Tax is payable @ 1% of payments receivable during the month.
- 2) As tax is payable on the aggregate amount specified in the agreement entered into or on value specified for the stamp duty, tax is payable on the amount received in advance during a particular period.

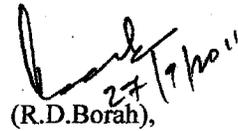
Sd/- Dr. J.B. Ekka, IAS,  
Commissioner of Taxes, Assam,  
Dispur, Guwahati-6.

Memo NO. CTS-51/2011/31- A

Dated Dispur, the 27<sup>th</sup> September, 2011.

Copy to :-

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. Infinity Townships Pvt. Ltd., Anil Plaza, 2<sup>ND</sup> Floor, Near IDBI Bank, G.S. Road, Guwahati-5 for information.

  
27/9/11

(R.D. Borah),  
Joint Commissioner of Taxes, Assam,  
Dispur, Guwahati-6.

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