

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

ORDER

Dated Dispur, the 20<sup>th</sup> February, 2013.

No. CTS-51/2011/172 : M/s Prem Kumar & Company, 187 Maharshi Debnath Road, Kolkatta (WB) filed an application under Section 105 of the Assam Value Added Tax Act, 2003 seeking clarification as to whether the work of transportation including loading and unloading of materials undertaken by the firm will attract levy of tax under the provisions of the Assam Value Added Tax Act, 2003. The application is found to be in order, hence admitted.

Shri D.R. Sethia, Advocate appeared on behalf of the firm and filed his submission. He submitted that they have received a tender from N.F. Railway, Maligaon for carriage of BG PSC Line/SEJ/Bridge Approach/T/O sleepers by road from concrete sleeper factory at Mirza/Jagiroad/ NJP or any other location of N.F. Railway as decided by the competent authority to different location i.e. from chainage 28/280.00 Km to 46/386.00 Km in North Bank of Bogibeel Bridge along the Railway track in connection with Bogibeel Bridge Project. (Tender No. CON/B-B Project (SPTR)/188 dated 14.12.2012). Perusal of the work order reveals that the work is of purely service of transportation including loading and unloading of materials and does not involve any transfer of property in goods.

It is therefore clarified that any activity of transportation of goods which does not involve any transfer of property in goods shall not be liable to works contract tax under the provisions of the Assam Value Added Tax Act, 2003 and hence the provisions relating to deduction of tax at source shall not be applicable. Further from the agreement it is found that the effective control of transport vehicles are not shifted to N.F. Railway, hence the contractor is not liable under lease contract also.

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

Memo No. CTS-51/2011/172-A

Dated Dispur, the 21 February, 2013

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 Prem Kumar & Company, 187 Maharshi Debnath Road, Kolkatta (WB), for information.

(R.D. Borah),

Joint Commissioner of Taxes, Assam,  
Guwahati-6.

M/s  
21/2/13