

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

ORDER

Dated Dispur, the 13th October, 2015.

No. CTS-40/2013/159 : The petitioner, M/s. Gulf Bio Analytical, L.L.C. filed a petition seeking clarification regarding—

1. Whether raising of adhoc/interim invoices for progressive payments by Gulf Bio Analytical, L.L.C. on M/s. BCPL for supply of imported materials (under direct import transaction), Indigenous materials (under interstate sale transaction), Design & Detailed Engineering & Construction, Installation, Inspection and Commissioning (involving only labour and services) for the D.L.O.A BCPL/C&P/DLOA/A416-000-LB-TN-9500/KPR/WK-114 dated 10.07.2014 is liable to tax under AVAT Act' 03 and whether M/s. BCPL is liable to deduct AVAT under section 47 of the AVAT Act'03.
2. Whether any of the transaction of the D.L.O.A. BCPL/C&P/DLOA/A416-000-LB-TN-9500/KPR/WK-114 dated 10.07.2014 is liable to tax under AVAT Act'03 and M/s. BCPL is liable to deduct AVAT under section 47 of the AVAT Act'03.

Perused the petitioner's prayer. I have also given my anxious consideration to the submission of the petitioner. Regarding query No.1; it is found that section 18(1) of the AVAT Act'03 has laid down that the time of sale of goods shall be the earliest of the following-

- a) Issue of tax invoice;
- b) Receipt of payment, in full or in part;
- c) Transfer of title or possession of the goods or incorporation of the goods in course of execution of works contract.

Therefore the applicant firm i.e. Gulf Bio Analytical, L.L.C. is liable to pay tax on transaction since the incidence of tax is completed under clause (b) above.

As regards to query No.2 of the petitioner, as per terms of section 47(1), 47(2) and 47(3) the purchasing organization is liable to deduct tax at source before making payment whether in part or in full before payment of any amount to the supplier/contractor, wherein there is sale, work contract, lease or hiring of any other incidence of tax. Therefore tax will be deducted at source accordingly in the case. However if the applicant thinks that he is liable to a lesser quantum of tax, he may obtain lower deduction tax certificate from the tax authority under whom he is registered.

It is also mentioned that I am also constrained to give a specific clarification under section 105 of the AVAT Act, 2003 as the applicant did not make a pointed reference to a disputed question rather the applicant has just enclosed the bunch of documents such as DLOA etc.

However, with the above observation, the petitioner's prayer is disposed off with the clarification that VAT is payable by M/s. Gulf Bio Analytical, L.L.C. and purchasing organization is liable to deduct tax at source before making payment whether in part or in full before payment of any amount to the supplier/contractor.

Sd/-
(Dr. Ravi Kota, IAS)
Commissioner of Taxes, Assam
Guwahati.

Contd.P/2

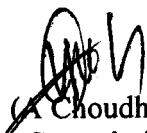
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Memo No. CTS-40/2013/159-A

Dated Dispur, the..28th October, 2015.

Copy to:-

1. The Principal Secretary to the Government of Assam, Finance Department, Dispur for favour of kind information.
2. The Additional Commissioners of Taxes/ Joint Commissioners of Taxes (All), Head Office for information.
3. The Deputy Commissioner of Taxes , (All) for information.
4. The Assistant Commissioner of Taxes, (All) for information.
5. M/s. Gulf Bio Analytical, L.L.C., No.#660, 7th Block, 2nd Phase, Banashankari 3rd Stage, Bangalore-560085 for information.


(A Choudhury)
Joint Commissioner of Taxes, Assam,
Dispur, Guwahati-6.

M.P.S.
28/10/15