

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

ORDER

Dated Dispur, the 10th August, 2016.

No. CTS-51/2015/57 - The petitioner, N. F Railway, Maligaon, Guwahati filed a petition seeking clarification regarding applicable rate of tax on drugs and medicine when their vendors supplies medicine to N.F Railway from Assam to any place outside the state of Assam like New Jalpaiguri, Kathiar etc. This query has arisen due to enhancement of rate of tax from 5% to 6% in the said item "Drugs and Medicine" vide Govt. notification no. FTX.55/2005/Pt-VII/29 dated 02/07/2016 published in Assam Gazette No. 229 dated 04/07/2016.

According to the petitioner, N. F Railway, Maligaon, Guwahati, they take supplies of medicine from their vendors in Assam for delivery at places like New Jalpaigiri, Kathiar etc. The vendors directly supply the goods to the said places. N.F Railway does not issue any C form to the vendors. However, it is the considered view of N.F Railway that increase in rate of tax has taken place only in respect of VAT Sales, so there should not be any increase in rate of tax in respect of CST Sales.

After perusal of the petitioner's petition, I am of the firm opinion that the interpretation of law as determined by the petitioner is highly erroneous. A reading of section 9(2) of the CST Act makes it amply clear that general sale tax law of the appropriate state is the guiding Act or the parent act. In our state, the AVAT Act is the parent act. Therefore, if there is any change in the parent act, i.e. the AVAT Act, then this change has an immediate impact in the other sales tax Acts prevalent in the state, in the current case, the CST Act. Hence, now if a dealer sells drugs and medicine outside the state and does not submit requisite C Form, he cannot claim the benefit of concessional rate of tax as provided u/s 8(1) of CST. In that case, it is section 8(2) that is relevant and applicable because tax payable by any dealer on his turnover insofar as the turnover or any part thereof relates to the sale of goods in course of interstate trade or commerce not falling within sub-section (1) of section 8, shall be at the rate applicable to the sale or purchase of such goods inside the appropriate State under the sale tax law of that State.

With the above observation, the petitioner's prayer is disposed off with the clarification that when "Drugs and Medicine" are sold outside the state and sale is not supported by C form, then CST is payable @ 6% w.e.f 04/07/2016.

Sd/-
(Sri Anurag Goel, IAS),
Commissioner of Taxes, Assam,
Dispur, Guwahati-6.

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Memo No. CTS-51/2015/57-A

Dated Dispur, the 11 th August, 2016.

Copy to:-

1. The Commissioner & 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. N.F Railway, Maligaon, Guwahati for information.

H. Borgohain

(H. Borgohain)

Joint Commissioner of Taxes, Assam,
Dispur, Guwahati-6.

MDS
11/08/16