

GOVERNMENT OF ASSAM  
OFFICE OF THE COMMISSIONER OF TAXES: ASSAM  
KAR-BHAWAN, DISPUR, GUWAHATI-6

No:CTS-65/2015/15

Dated Guwahati the 18-02-2016

M/s Dharmopal Satyapal Ltd., Industrial Estate, Bamunimiaidan Guwahati has filed an application under section 105 of the Assam Value Added Tax Act, 2003 seeking clarification on levy of Entry Tax on various items of packing materials which are imported from outside the state and used in the process of packing of pan masala in view of definition of "sale price" as embodied in section 2(44) of the Assam Value Added Tax Act 2003.

The application is found in order, hence admitted. Heard Shri Ranjit Kumar Das, Authorised representative of the petitioner. He argued that a case of pan Masala contain (1) Pan Masala, (2) Laminate Pouch in which "Pan Masala is packed (3) Carton in which several pouches of Pan Masala are packed and (4) Corrugated Box in which several cartons are packed. In written submission, it was contained that the "sale price" as defined in sec 2(44) of the AVAT Act means the amount of valuable consideration paid or payable to a dealer for any sale made including any sum charged for anything done by the dealer in respect of goods at the time of before delivery of the goods other than cost of freight or delivery or the cost of installation where such cost is separately charged. It is submitted that the additional cost of packing is reflected in the sale price reference to sec 10(2) of the AVAT Act'2003 is also made to drive home the point that the containers or packing materials in which the goods are so packed shall be deemed to have been sold along with the goods. Further sec 3(2)(i) and sec 3(2)(ii) of the Assam Entry Tax Act, 2008 has been quoted to state that no entry tax is leviable. On such specified goods which are also taxable under the AVAT Act'2003.

It is admitted that where a commodity cannot be sold without a container, it is the overall price which is the price of the commodity and the container is, as if it were only a part of the cost of production. The amount for which goods are sold i.e. the turnover of the dealer shall include charges for anything done by him in respect of the goods sold at the time or before delivery thereof excluding freight cost, delivery cost or installation cost if separately charged.

But, with regard to sec 3(2)(i) & section 3(2)(ii) of the Assam Entry Tax Act, 2008, it is evident from the provision of sec 3(2)(i) and sec 3(2)(ii) of the Act that the legislature included to exempt those specified goods from Entry Tax which are brought into local area for the purpose of resale. Laminate pouch carton and corrugated Box are not brought into the local area for resale as per insertion in the certificate of registration but for use as container and packing materials. It was not the object of provision 3(2)(i) & 3(2)(ii) of the AET Act to

dole out any relief from levy of Entry Tax since the provision is specific to resale of the imported specified goods and the relief claimed is misconceived diluting the provision of the both enactments under Value Added Tax and Entry Tax.

It is therefore clarified that entry tax on the items used as container i.e. carton and corrugated Box will continue to be payable as per rates specified in the schedule to the AET Act, 2008.

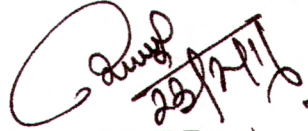
Sd/(Sri Anurag Goel IAS)  
Commissioner of Taxes: Assam  
Dispur, Guwahati-6

Memo No: CTS-65/2015/15-A

Dated Guwahati the 25<sup>th</sup> Feb. 16

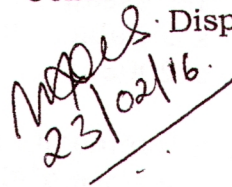
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1. The Principal Secretary to the Govt. of Assam , Finance Deptt., Dispur-6 for favour of information of the Govt.
2. The Addl.C.T./J.C.T. (All) for information.
3. The D.T.C. (All) for information.
4. The A.C.T./S.T. (All) for information.
5. M/s Dharmpal Satyapal Ltd., Industrial Estate, Bamunimiaidan Guwahati for information.



(Shri.P.K.Das )

Joint Commissioner of Taxes, Assam  
Dispur, Guwahati

  
23/02/16.