
ORDER

Dated Dispur, the 20th June, 2016.

No.CTS-85/2015/38 : M/s Hindustan EPC Co Private Limited, 331, Usha Building, A.T. Road, Machkhowa, Guwahati-9 has filed an application under section 105 of the Assam Value Added Tax Act, 2003 for clarification as to the chargeable rate of VAT on goods to be supplied by him for exclusive use in setting up some Solar Power Project. The application found being in order has been admitted for decision.

Shri Sandeep Agarwal, Chartered Accountant, appeared and placed submissions on behalf of the applicant. His averments are as follows. The entry serial No.74 of the First Schedule appended to the Assam Value Added Tax Act, 2003 which reads as "renewable energy devices and its spare parts" comprehends the various goods like solar photovoltaic module, transformer, transformer oil, iron and steel angles/ channels, fire fighting equipments, switches, connectors, relays, cables, transmission towers, poles etc. sought to be supplied by him for the purpose of erection of solar power project. Second, the provisions of the Value Added Tax Acts of Rajasthan and Punjab include such goods in the exempt list. Perused the submissions of the applicant and examined the relevant provisions of the Assam Value Added Tax Act, 2003 as well as rules of interpretation of taxing entries formulated in the various judicial pronouncements.

As regard claims of the applicant applying the entry serial No.74 of the First Schedule of the Assam Value Added Tax Act, 2003 to classify the goods in question, it can be unhesitatingly said that such claim is based on sheer misconception and fallacious reasonings. The contextual meaning of the enumerating expression "renewable energy devices" is appliances, contrivances, tools and the likes which are capable of doing works or performing functions exclusively on energy derived from renewable sources like sun and wind, naturally occurring water bodies like oceans, rivers, biomass etc. In common parlance, those are understood as goods like solar lamp, solar lantern or lighting system, solar cooker etc. based on solar thermal and solar photovoltaic conversion, solar panel or solar photo-voltaic module for water pumping (not the pump set) or other applications, windmills, biogas plants, devices using only energy derived from flowing or stored up water and the like things. By no stretch of imagination, the expression "renewable energy devices" can comprehend goods like standalone solar photo voltaic inverter, transformer, transformer oils, iron and steel angles/channels, fire fighting equipments, transmission towers, poles, conductors switches, relays, nuts and bolts needed for erecting a complete power plant, albeit using solar energy as fuel. Therefore, the goods in question, except the item at Sl. No.1 i.e solar photovoltaic module, undoubtedly do not fall under the description of the entry serial No.74 of the First Schedule of the Assam Value Added Tax Act, 2003. It is to be noted that goods like solar photovoltaic inverter, solar battery are almost the same as normal inverter or battery which when used in a solar plant requires some minor value addition/modification by virtue of which such goods cannot be termed as "renewable energy devices". Such devices can be easily used as normal Invertors or batteries with some modifications. As regard the averment that since the provisions of the Value Added Tax Acts of Rajasthan, Punjab have enumerated such goods as exempt items, the same ought to be clarified as

exempt goods also under the Assam Value Added Tax Act, 2003 through the present proceedings under section 105 of the same Act, is wholly contrary to law. Therefore, the applicable rate of tax under the Assam Value Added Tax Act, 2003 on the goods under question shall have to be determined on the basis of various entry schedules appended to the concerned Act. The same are decided as shown below.

<u>Sl. No.</u>	<u>Items</u>	<u>Applicable taxing entry serial No.</u>	<u>Rate of Tax</u>
1.	Solar Photovoltaic Module	First Schedule entry Sl. No.74	Nil
2.	Solar Photovoltaic Inverter/battery	Fifth Schedule	14.5%
3.	Transformer	Second Schedule Part-A, Entry Sl. No.101	5%
4.	Transformer oils	Fifth Schedule entry Sl. No.1	14.5%
5.	4T switchboards	Second Schedule Part-C, Entry Sl. No.171	5%
6.	Mounting Steel Structure (if fabricated from iron & steel)	Second Schedule Part-A entry Sl. No.129	5%
7.	Switches, connectors and relay	Second Schedule Part-C entry Sl. No.171	5%
8.	Metering CT, PT	Fifth Schedule, entry Sl. No.1	14.5%
9.	Measuring Instrument	-do-	14.5%
10.	Surge arrestors	-do-	14.5%
11.	Distribution box & MCCB	-do-	14.5%
12.	String combiner Box	-do-	14.5%

13.	Cable, all types & size	Fifth Schedule, entry Sl. No.1	14.5%
14.	PVC copper flexible wise	Fifth Schedule entry Sl. No.1	14.5%
15.	Tinned copper Aluminium bimetallic lugs	Fifth Schedule entry Sl. No.1	14.5%
16.	Early Streamer Emission	-do-	14.5%
17.	HDPE Conduit	Second Schedule, entry Sl. No.47	5%
18.	GI Earthing strip, Earthing pit & Earthing materials	Second Schedule Part-A entry Sl.No.171	5%
19.	Supporting structures and poles structure	Fifth Schedule, entry Sl. No.1	14.5%
20.	Batteries, Battery Bank & Battery Charger	Fifth Schedule, entry Sl. No.1	14.5%
21.	Termination kit	Fifth Schedule, entry Sl. No.1	14.5%
22.	Metering Panel	Fifth Schedule, entry Sl. No.1	14.5%
23.	Iron & steel angles/ channels	Second Schedule, Part-A entry Sl. No.118/129	5%
24.	Ladder type cable tray	Fifth Schedule entry Sl. No.1	14.5%
25.	Lighting Pole, Light Fitting	Fifth Schedule, entry Sl. No.1	14.5%

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26.	Fire Fighting Equipments	Fifth Schedule, entry Sl. No.1	14.5%
27.	Safety items	Fifth Schedule, entry Sl. No.1	14.5%
28.	Nut, bolts & Hardware goods	Fifth Schedule, entry Sl. No.1	14.5%
29.	Wire	-do-	14.5%
30.	Conductors	-do-	14.5%
31.	Clamps & connectors	-do-	14.5%
32.	Transmission Tower & its apparatus	Second Schedule, Part-C entry Sl. No.171	5%

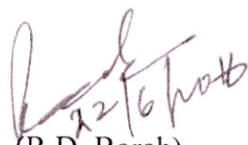
Sd/-
(Anurag Goel, IAS)
Commissioner of Taxes, Assam
Guwahati

Memo No.CTS-85/2015/38-A

Dated Dispur, the 22th June, 2016.

Copy to:-

1. The Addl. Chief 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 Hindustan EPC Co Private Limited, 331, Usha Building, A.T. Road, Machkhowa, Guwahati-9 for information.


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