

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

ORDER

Dated Dispur, the 20th August, 2009.

No. CTS-29/2008/148: M/s. Assam Roller Flour Mills Association, Guwahati has filed an application under section 105 of the Assam Value Added Tax Act, 2003 and sought clarification as to whether the delivery, despatch and/or distribution of wheat products by the members of the applicant association to the fair price shops under the PDS Scheme on the directions of the Deputy Commissioner of the district amounts to sale taxable under the Assam Value Added Tax Act, 2003 or not. The application is found to be in order, hence admitted.

Dr. Ashok Saraf, Senior Advocate appeared on behalf of the petitioner and placed his submission. He submitted that the members of the petitioner Association deliver and/or despatch the atta and wheat products to the fair price shop as per the direction of the Deputy Commissioner and not as a result of any contract of sale.

The petitioner states that under the Control Order of 2001, the Food Corporation of India or any other agency designated for the purpose of the Control Order of 2001 ensures physical delivery of food grains of fair average quality to the State Governments for distribution under Public Distribution System as per the allocations made by the Central Government. On getting such allocation, the State Government issues district wise allocation orders authorizing their agencies or nominees to draw food grains within a specific time of the receipt of the allocation order. As per the Control Order of 2001, the State Government shall make arrangement for taking delivery of the essential commodity issued by the Central Government by their designated authorities or nominees from the FCI Depot or godowns to ensue further delivery to the fair price shops, like the members of the applicant Association, for which the allocation is made. The sale price of the wheat as well as the price at which W/Atta & Bran is to be supplied to the fair price shops, are also fixed by the Central Government & the State Government respectively. The conversion ratio of wheat into W/atta/bran is also fixed by the State Government. The petitioner claims that they are milling wheat into atta on behalf of the State Government and they are entitled to only milling charges and other incidental packing charges. They claim that the ownership of the wheat delivered to them for all purposes remain with the State Government.

In order to get a clear picture of the whole transaction, the Director, Food and Civil Supplies, Assam was requested vide this office letter No. CTS-29/2008/96 dated 31.03.09 to clarify the issue whether ownership of wheat remains with the State Government or is transferred to the Roller Flour Mills at the time of lifting of wheat from FCI and whether the ownership of atta lies with the State Government or the Roller Flour Mills after wheat is milled in the Roller Flour Mills. The Director, vide his letter No. DS/109/2008/17 dated 15.07.09 & DS/109/2008/15 dated 24.06.2009 clarified that the State Government is the owner of PDS wheat and atta.

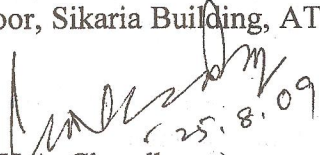
Since as stated by Director, F&CS that Roller Flour Mills are not owners of the wheat as well as the wheat products and what they do is only milling for which they get milling charges, hence, they are not liable to pay tax on wheat products delivered by them to fair price shops under PDS.

Sd/-Sanjay Lohiya,
Commissioner of Taxes, Assam,
Guwahati.

Memo No. CTS-29/2008/148-A
Copy to :

Dated Dispur, the 25th August, 2009.

1. The Principal Secretary to the Government of Assam, Finance (Taxation) Department, Dispur for favour of kind information.
2. The Addl. Commissioners of Taxes, Assam (All) for information.
3. The Joint Commissioners of Taxes, Assam (All) for information.
4. The Deputy Commissioners of Taxes, Zones & Appeals (All) for information.
5. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information.
6. Dr. Ashok Saraf, Senior Advocate, Guwahati for information.
7. M/s. Assam Roller Flour Mills Association, 1st Floor, Sikaria Building, AT Road, Guwahati-1 for information.


(M.H.A. Choudhury),
Addl. Commissioner of Taxes, Assam,
Guwahati.
