

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

ORDER

Dated Guwahati the 9th February, 2011

No. CTS-29/2008/187 : Shri Rajkumar Agarwala, C.A./ Secretary, Bongaigaon Tax Bar Association, Bongaigaon filed an application under section 105 of the Assam Value Added Tax Act, 2003 seeking clarification on rate of tax on aluminium foil and aluminium foil made container.

Shri Rajkumar Agarwala appeared and placed his submission. He submitted that aluminium foil is covered under entry No. 167 of Part-C of Second Schedule as it is aseptic packing foil of thickness less than 0.2 mm but not backed by paper or LDPE. Further it is basically used for packing of dishes. Regarding aluminium foil container, he submitted that it is covered vide entry 6 of Second Schedule because it falls within the term aluminium utensil. It is used by hotel and restaurants as disposal packing material for cooking food. It is entirely made of aluminium except its cover which is partly paper. He also submitted samples of aluminium foil and aluminium foil made container.

Perused the submission and samples are examined Clarification is issued as under---

- 1) Aluminium foil:—As per entry at Sl No. 167 of Part-C of Second Schedule, aseptic packing foil of thickness less than 0.2 mm but backed by paper and LDPE is taxable @ 5% . However the sample furnished by and as submitted by the petitioner, though aluminium foil is of thickness less than 0.2 mm but it is not backed by paper and LDPE. As such the item under dispute do not fulfill one condition to fall under entry at Sl. No. 167. Therefore the item shall not be covered under said entry. Further the item is not covered under any entry of First, Second, Third and Fourth Schedule. Hence the same shall be covered under entry at Sl. No. 1 of the Fifth Schedule and taxable @ 13.5%.
- 2) Aluminium foil made container:--The entry at Sl. No. 6 of Part-A of Second Schedule reads as "Aluminium, Steel, Brass and Enamelled Utensils including pressure cooker" Utensil in common parlance means container / cookware used for cooking, storing, serving etc. Utensil can be used for such purposes for several times and these are generally not of kind which is used and thrown away. However the item mentioned by the petitioner is of use and throw in nature. Therefore these items, in common parlance, can not be regarded as aluminium utensil. As the item is not mentioned in any other entry of First, Second, Third and Fourth Schedule, the item shall be covered under entry at Sl. No. 1 of the Fifth Schedule and taxable @ 13.5%.

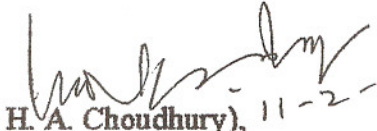
Sd/-(Sanjay Lohiya),
Commissioner of Taxes, Assam,
Dispur, Guwahti-6.

Dated Dispur, the 15th February, 2011.

Memo No. CTS-29/2008/187 -A

Copy to :-

1. The Principal Secretary to the Govt. of Assam, Finance Department, Dispur, Guwahati - 6 for favour of kind information of the Government.
2. The Addl. Commissioner of Taxes/Joint Commissioners of Taxes (All) for information.
3. The Deputy Commissioner of Taxes (All) for information.
4. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information.
5. M/s. Rajkumar Agarwala, C.A./ Secretary, Bongaigaon Tax Bar Association, Bongaigaon for information.


(M. H. A. Choudhury), 11-2-11
Addl. Commissioner of Taxes, Assam,
Dispur, Guwahati-6.