

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

**ORDER**

Dated Dispur, the 8<sup>th</sup> February, 2011.

No. CTS-91/2002/234: M/s Archiventions, C/o. Bards Institute, D.S. Mension, 2<sup>nd</sup> Floor, R.G.B. Road, Guwahati-5 has filed an application under Section 105 of the AVAT Act, 2003 seeking clarification as to whether there is any sale tax in Architectural consultancy.

Shri Debojyoti Debroy, Chief Architect of the firm appeared and placed his submission. He submitted that the work undertaken by them is to prepare architectural drawing in plan and elevation including market survey and geological investigation for designing, preparation of working drawings, specification and estimating for construction of new multifunctional complex at Silchar. As there is no transfer of property in goods, no sales tax is leviable. He also submitted a copy of the work order.

Perused the submission and work order is examined. On verification of agreement No. SE/68 dt.9.6.2010, it appears that the work is for preparation of architectural drawing in plan and elevation including market survey and geographical investigation for designing, preparation of working drawings, specifications and estimating for construction of new multi functional complex at Silchar.

As per provision of Section 2(43) of the AVAT Act, 2003 "sale" shall include transfer of property in goods (whether as goods or in some other form) involve in the execution of a works contract. Again as per definition of "works contract" in Section 2(57) of the AVAT Act, 2003, works contracts includes any agreement for carrying out for cash, deferred payment or other payment or other valuable consideration, the building, construction, fabrication, erection, installation, fitting out improvement, modification, repair or commissioning of any movable or immovable property. It appears from the work order of the petitioner that the consultancy is required to be carried out for the following :-

- (i) To carry out a market survey for assessing the requirement of various structure to be provided in proposed MFC.
- (ii) To provide & carry out the geo-technical investigation for proposed MFC.
- (iii) To provide structural design & drawing for proposed MFC including geographical survey of the site.
- (iv) To assess the electrical requirement & design the layout of electrical lighting, AC requirement & layout of ducts etc.
- (v) To design the internal layout of the various structures of the MFC.
- (vi) To prepare the Estimate & tender schedule to float them for execution of the work of the MFC. It will imply detailing the detailed specification & drawing for execution of work.
- (vii) Site Inspection for finalization of above details shall be conducted by the Consultant at their own cost.

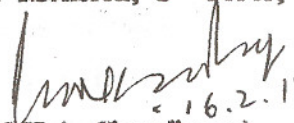
Therefore, it is found that there is no transfer of property in goods in this contract. Hence, the contract shall not come under the definition of works contract under the AVAT Act, 2003, hence, it is not "sale" as per the definition under the AVAT Act, 2003. Hence, no sales tax shall be leviable on the said work order.

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

Memo No. CTS-91/2002/234-A

Dated Guwahati, the 16<sup>th</sup> February/2011

- Copy to :
1. The Principal Secretary to the Government of Assam, Finance Department, Dispur, Guwahati-6 for favour of kind information of the Government.
  2. The Addl. Commissioners of Taxes/Joint Commissioners of Taxes(All) for information.
  3. The Deputy Commissioner of Taxes (All) for information.
  4. The Assistant Commissioner of Taxes, Superintendent of Taxes(all) for information.
  5. M/s Archiventions, C/o. Bards Institute, D.S. Mension, 2<sup>nd</sup> Floor, R.G.B. Road, Guwahati-5

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