

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

ORDER

Dated Dispur, the 2nd March, 2013.

No.CTS-21/2005/88 : M/s Godrej Consumer Products Ltd., Industrial Estate, Bamunimaidan, Guwahti-21 filed a petition under Section 105 of the Assam Value Added Tax Act seeking clarification as to whether VAT is applicable on intra-state stock transfer from one manufacturing unit to another having different TIN.

Shri Anupam Chakraborty & Shri Pawan Kr. Chandgothia (Agarwal) authorized representative appeared on behalf of the petitioner and filed their submission. They submitted that Godrej Consumer Products Ltd. has registered office at Mumbai and has manufacturing unit at Shed No. 9,10,11,12, Industrial Estate, Bamunimaidan Industrial Estate, APDC Complex Kalapahar, Mini Industrial Estate, Kalapahar, Lalung Gaon, Lokhra and in Brahmaputra Industrial Park, North Guwahati. All the above manufacturing units are registered under the AVAT Act, 2003 separately as per Notification No. FTX.29/2003/Pt/27 dt. 22.2.2010 and accordingly they are allotted TIN for the aforesaid manufacturing units. The aforesaid manufacturing units transfer raw materials and packing materials from one unit to another for the purpose of manufacturing of their finished goods. Goods are moved from one manufacturing unit to another unit within the State as stock/transfer and there is no sale. They submitted that such stock/branch transfer cannot be subject to tax as because there is no sale. The transaction between one manufacturing unit and the other manufacturing unit does not constitute sale within the meaning of Section 2(43) of AVAT Act, 2003 unless it is coupled with the transfer of title of the goods. He also submitted judgment of Hon'ble Delhi High Court in the goods of Havell's India Ltd, V/s The Commissioner Value Added Tax & Another wherein Hon'ble Court held that a transaction involving mere physical transfer of goods by the principal to its agent unless coupled by transfer of title or property in the goods to the agent, does not constitute sale and that the State legislature is not competent to levy tax on a transaction where the goods are physically transferred from the principal to the consignment agent but the property or title in the goods continues to vest in the principal.

Perused the submission and provision of the AVAT Act, 2003. The transaction mentioned by the petitioner shall not come under the definition of sale under the AVAT Act. However, the petitioner has to keep detailed accounts of all such transaction in respect of each of such units of production and shall have to submit returns showing such transaction, statements or communication to the concerned prescribed authority to claim that such transaction is not sale or purchase within the meaning of sale under the AVAT Act and hence not liable to pay tax.

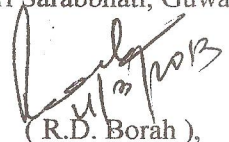
Sd/-Dr. J.B. Ekka, IAS,
Commissioner of Taxes, Assam,
Guwahati-6.

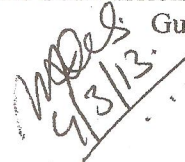
Dated Dispur, the 5 March, 2013

Memo No. CTS-21/2005/88-A

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 Yashashwi Ispat Pvt. Ltd., B.K. Kakati Road, Ganga Niwas, Rehabari Sarabbhati, Guwahati-8 for information.


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


MDes
9/3/13