

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

ORDER

Dated Dispur, the 02nd April, 2013.

No. CTS-6/2009/302 : M/s Brahmaputra Tele-Productions Pvt. Ltd., Sikaria Complex, S.J. Road, Athgaon, Guwahati-1 has filed an application under Section 105 of the Assam Value Added Tax Act read with Section 9 of the Assam Entry Tax Act seeking clarification as to whether entry tax is leviable on equipments/ Goods used for Broadcasting purpose or "Headend in the Sky" (HITS) services permitted as per the guidelines from the Ministry of Information & Broadcasting, Government of India.

Shri Kamal Kr. Jain, Sales Tax practitioner appeared on behalf of the petitioner and filed his submission. He submitted that the items/ goods meant for Tele-Communication as occurring in Entry-3 of the Schedule of the Assam Entry Tax Act, 2008 does not hold good in the case of Broadcasting Media i.e. the publicity Media and the said items/ goods cannot be linked or connected with the operations of the said Broadcasting Media in its day to day functioning. He submitted that the applicant is in the business of Broadcasting. Major part of the technology used in Broad Casting is similar to that used in the Tele-Communication but the same is not used in entirety. Thus the principle of end-use of the technology must be accepted while applying the principles of Taxes on it. He also submitted that Government has exempted Prasar Bharti & Doordarshan, from payment of entry tax on the goods specified in the schedule which are meant for own consumption and exclusive use of Prasar Bharati and Doordarshan.

Perused the submission and the entries of the Assam entry Tax at schedule has been examined. As per entry at Sl. No. 3 Tele-Communication equipment including telephones, mobile phones, pager and component part thereof are taxable @4%. Further, as per entry at Sl. No. 4 wireless reception instrument and apparatus and Radios and parts thereof are also taxable @4%.

The petitioner himself has admitted that the goods mentioned by him i.e. major part of the technology used in Broadcasting is similar to that use in Tele-Communication but according to him as end-use is different, therefore same cannot be brought under Tele-Communication equipment. Infact while imposing tax the same cannot be decided on the basis of end-use. If an item is mentioned in schedule whereby tax is leviable on such item, such item cannot be said to be exempted by judging the use of the item. Tax shall be leviable as per entry in the schedule. Therefore, the items mentioned by the petitioner shall come under the purview of Assam Entry Tax Act, 2003.

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

Dated Dispur, the 3rd April, 2013

Memo No. CTS-6/2009/302-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 Brahmaputra Tele-Productions Pvt. Ltd., Sikaria Complex, S.J. Road, Athgaon, Guwahati-1 for information.

(R.D. Borah),

Joint Commissioner of Taxes, Assam,
Guwahati-6.

M.D.S.
3/04/13