

No. CTS-77/2007/123

Dated Dispur, the 26th September/2008

Sub: Clarification as to whether current month's/years liability can be adjusted with the TDS certificate pertaining to earlier years/period.

Extract of the Order.

As per provisions of the sub-section (8) of section 47 of the Assam value Added Tax Act/2003 read as “ any deduction made in accordance with the provisions of this section and credited into the Government account, shall be treated as payment of tax on behalf of the person from whose bills and invoices, the deduction has been made and credit shall be given to him for the amount so deducted on the production of the certificate prescribed in this regard, towards the amount of tax finally assessed or determined as being payable by the concerned person in the assessment for the relevant assessment year and any amount deducted in excess of the tax so assessed or determined shall be refundable in accordance with the provisions of this Act”. In the provision it is clearly stated that any amount deducted in excess of the tax so assessed or determined shall be refundable in accordance with the provision of the Act.

It is therefore clarified that a dealer cannot adjust TDS certificate pertaining to earlier years/period with the current months/year's tax liability until and unless excess amount of tax so deducted, on being assessed and determined thereafter, is refunded as per provisions of the Assam Value Added Tax Ac/2003. In case if the dealer has supplied goods and also paid tax along with return, then the dealer can obtain certificate of lower deduction or no deduction on body of bill from prescribed authority as per Rule 28(4) of Assam Value Added Tax Rules/2005.

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