

GOVERNMENT OF ASSAM
OFFICE OF THE COMMISSIONER OF TAXES:.....ASSAM:.....GUWAHATI

ORDER

Dated Dispur the 18th November/2015.

No.CTS-55/2012/273 : M/s Northeast Gases Pvt. Ltd, P.O. Dhaligaon, Dist. Chirang (BTAD) has filed an application under section 105 of the Assam Value Added Tax Act, 2003 seeking clarification on the following issues :-

- (i) Whether entry tax is payable on import of calcium carbide from Bhutan ;
- (ii) If so, the applicable rate of tax ;
- (iii) The relevant section / entry Sl. No. of the Assam Entry Tax Act, Schedule pertaining to entry tax on calcium carbide ; and
- (iv) The applicable rate of vat on medical oxygen.

The application is found in order and is, therefore, admitted for adjudication. Shri Dhanpat Sethia appeared and placed averments on behalf of the petitioner. Perused the submissions and examined the relevant provisions of law.

As regard the issue listed under (i) above, it is clarified that entry tax is payable on specified goods imported from Bhutan or for that matter from any place outside Assam or India with effect from 6.02.2015 as per provisions of the Assam Entry Tax, (Second Amendment Act, 2014). Since calcium carbide means chemical in common or commercial parlance, entry tax is payable on import of calcium carbide.

As regard the issue listed under (ii) above, it is clarified that as per extant provision, the applicable rate of entry tax on calcium carbide is 2 (two) percent.

As regard the issue listed under (iii) above, it is clarified that entry tax is leviable in the case in view of the provisions contained in sections 2 (1) (b) and 3 of the Assam Entry Tax Act, 2008. The relevant entry of the Assam Entry Tax Act Schedule is Sl. No.51 reading as "chemicals".

As regard the issue listed under (iv) above, it is noted that as per verdict of the Hon'ble Allahabad High Court in Industrial Gases Vs. Commissioner of Sales Tax, U.P. (1968) 21 STC 124 (All) has ruled that oxygen has a definite industrial and medicinal use. When sold for medicinal purposes, it is to be taxed as medicine. Hence, it is clarified that the applicable rate of VAT on medical oxygen is 5 percent as per entry Sl. No.111 of Second Schedule, PART-A of the Assam Value Added Tax Act, 2003.

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The application filed by M/s. Northeast Gases Pvt. Ltd. stands thus disposed.


Sd/-Anurag Goel
Commissioner of Taxes, Assam,
Dispur, Guwahati-6.

Memo No.CTS-55/2012/273-A

Dated Dispur, the... ~~1st~~ ¹² November, 2015.

Copy to:-

1. The Principal Secretary to the Government of Assam, Finance Department, Dispur for favour of kind information.
2. The Additional Commissioners of Taxes/ Joint Commissioners of Taxes (All), Head Office for information.
3. The Deputy Commissioner of Taxes , (All) for information.
4. The Assistant Commissioner of Taxes, (All) for information.
5. M/s North East Gases Pvt. Ltd., P.O.Dhaligaon, Dist.Chirang, BTAD (Assam), Pin-783385 for information.


(A Choudhury)
Joint Commissioner of Taxes, Assam,
Dispur, Guwahati-6.

M.S.
30/11/15