

GOVERNMENT OF ASSAM  
OFFICE OF THE COMMISSIONER OF TAXES: ASSAM  
KAR-BHAWAN, DISPUR, GUWAHATI-06

No:CTS-64/2015/39

Dated Guwahati the 1<sup>st</sup> Feb,2016.

M/s Assam Industries, Christian Basti, Guwahati has filed an application for determination of disputed question under section 105 of the Assam Value Added Tax Act, 2003. Questions relating to levy, assessment and collection of Tax on which clarification is sought are (1) what is the rate of VAT on Bamboo Round Stick manufactured in Assam and used in making of incense sticks (2) What is the rate of VAT on Bamboo Silvers, Bamboo Dust and Bamboo powder manufactured in Assam (3) What will be status of tax during the transaction period if the exemption on the said products is extended.

The application is found in order, hence admitted Shri Binit Todi, CA appeared on behalf of the applicant .He submitted that there is no clarity about the tax exemption with regard to manufactured of Bamboo round sticks, Bamboo silver, Bamboo dust and Bamboo powder in Assam particularly post expiry of exemption period from 01-04-12 to 31-3-14 vide Govt. Notification No. FTX-55/2005/82/ dt.02-03-2013. He also referred to Sl No. 44 of the first schedule to the Assam Value Added Tax Act 2003 and offered the interpretation that the Bamboo round sticks used in making Bamboo blinds and Bamboo Chop stick is assumed to be exempt from tax under SL.44 of the First schedule. The Representative of the applicant however stopped short to advance any argument in respect of other disputed items such as Bamboo Silver, Bamboo dust and Bamboo Powder.

The power to impose tax or to exempt an item from levy of tax is undoubtedly a legislative power. Under Sl 44 of the First schedule to the AVAT Act, 2003 "Indigenous handicraft items manufactured in the state as may be notified by the Govt is exempt from tax under the AVAT Act. This entry has been substituted vide Notification No.FTX-55/2005/pt-IV/39 dt.16-10-2008 and by notification No FTX-55/05/pt-II/22 dt.08-08-2005, Govt notified indigenous handicraft items manufactured in the state for the purpose of entry 44.The said notification enumerates all the Bamboo products which will be determined in terms of entry 44 of the First schedule . It is pertinent to note that the items of Bamboo products as enumerated in the notification are all finished products and no provision for raw materials is made in the said notification.

But the items dealt in by the applicant are raw materials for use in the manufacture of finished bamboo products. Thus the relief as claimed by the applicant are not relevant either to the entry 44 of the First schedule nor covered by Govt notification dt.8-8-2005.

In view of the above findings the answers to the queries as are as below:

1. Since the item referred to by the applicant is neither included nor covered by first second, third and fourth schedule, the same will be governed by Sl. I of fifth schedule.
2. The answer to second query is similar to one given in (1) above.

3. The items of goods dealt in by the applicant were neither covered by exemption notification dt. 2-3-13 nor any exemption from tax can be anticipated till these items are included in the extended period of exemption by Govt. Notification if any.

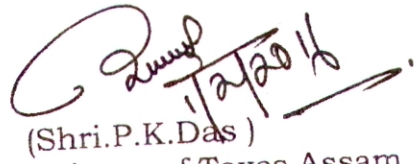
Sd/-(Sri Anurag Goel IAS)  
Commissioner of Taxes: Assam  
Dispur, Guwahati-6

Dated Guwahati the 1<sup>st</sup> Feb/2016.

Memo No: CTS-64/2015/39-A

Copy to:

1. The Principal Secretary to the Govt. of Assam , Finance Deptt., Dispur-6 for favour of information of the Govt.
2. The Addl.C.T./J.C.T. (All) for information.
3. The D.T.C. (All) for information.
4. The A.C.T./S.T. (All) for information.
5. M/s Assam Industries, Christian Basti, Guwahati for information.

  
(Shri.P.K.Das)

Joint Commissioner of Taxes, Assam  
Dispur, Guwahati

