

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

(Circular No.11/2009)

No. CTS-81/2007/264

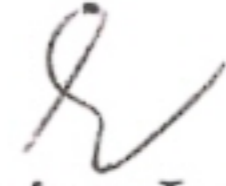
Dated Dispur, the 30th April, 2009.

Sub : Taxability on supply and installation of lift.

In the case of State of Andhra Pradesh Vs. Kone Elevators (India) Ltd. (2005) 140 STC 0022 W, the Hon'ble Supreme Court held that under the contract of Kone Elevators with his customer the entire onus of preparing and making ready the site of installation of the lift was on the customer. The Kone Elevators brought the lift to the site in the knocked down state and assemble and install it. The major component into the end product was the materials consumed on producing the lift to be delivered and the skill and labour employed for converting the main component into the end product was only incidentally used and delivery of end product by the Kone Elevators constituted a sale and not works contract.

In brief the Hon'ble Court held that when a lift is assembled and installed in a prepared site the transaction in question constitute sale and not works contract. In the State large number of buildings are coming up and lifts are installed in most of such buildings. It is not known whether the suppliers of lift are treating such transaction as sale or as works contract. It is apprehended that some supplier of lift may treat such transaction as works contract and pay composite tax @4%, whereas the rate of tax on lift is 12.5% as per entry at Sl. No.1 of the Fifth Schedule.

Therefore, all Assistant Commissioners of Taxes/Superintendents of Taxes are directed to verify such transaction in the light of judgment and order of the Hon'ble Supreme Court referred to the above and take necessary action to realize due taxes from such supplier as per applicable rate.



(Sanjay Lohiya),
Commissioner of Taxes, Assam,
Guwahati.

Memo No. CTS-81/2007/264-A

Dated Dispur, the 30th April, 2009.

Copy to:-

1. The Principal Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information.
2. The Addl. Commissioners of Taxes/Joint Commissioners of Taxes (All), Head Office for information.
3. The Deputy Commissioners of Taxes (All) for information and necessary action.
4. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information and necessary action.
5. Circular file.


(Sanjay Lohiya),
Commissioner of Taxes, Assam,
Guwahati.
