

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

(Circular No. 32/2007)

No. CTS.81/2007/20

Dated Dispur, the 17th Oct/2007.

Sub : Issuance of certificate for lower deduction of tax under Section 47(1)(b) in Form-31 under AVAT Act/2003.

It has come to notice that some prescribed authorities have granted certificate for lower deduction of tax in Form-31 to works contractors without following the provisions of law. Such certificates have allowed deduction of tax at a very low rate causing huge loss of revenue.

(1) Section 11(c) read with Rule-10 and Section 47(1)(b)(i) and Rule 28(2)(c) are the relevant provisions in this regard. On proper reading of these provisions, it is clear that deduction towards charges for labour, services etc. have to be determined from accounts maintained in respect of amounts actually incurred towards labour, services, etc. This is possible only after work is executed. Hence no certificate in Form-31 can be issued without work having being executed. The certificate in Form-31 can be issued to the extent of work executed or running bill made.

(2) Further it is clarified that no ITC can be allowed for Schedule-IV items like bitumen, petrol, diesel etc. for allowing any other ITC, the dealer should possess proper Tax Invoices.

(3) As regards deduction towards labour, other services, consumables, etc. the same should be verified from accounts maintained by the contractor and should be reasonable considering the nature of the contract.

In case, any Prescribed Authority has already issued certificate in Form-31 for a full contract which is yet to be executed or is in the process of execution, such grant of certificate should be reviewed after giving the dealer reasonable opportunity of being heard as per provision of Rule 28(2)(c) and necessary modification/cancellation be done immediately. Steps should also be taken for recovery of due taxes. Immediate steps also be taken for recovery of tax not collected due to issuance of such erroneous certificates. All works contract under State PWD, Central PWD,


Railways, National Highway Authority of India, PSUs like NEEPCO, ONGC, OIL, IOC, NIIPC, NTPC etc. may be reviewed immediately on a priority basis. It is expected that necessary remedial measures will be completed within one month. Any erroneous certificate left unattended or issue of erroneous certificate in future will be viewed seriously.

(Sanjay Lohiya),
Commissioner of Taxes, Assam,
Guwahati-6.

Memo No. CTS-81/2007/20
Copy to :-

Dated Dispur, the 17 OCT/2007.

1. The Commissioner & Secretary to the Govt. of Assam, Finance (Taxation) Department, Dispur, for favour of kind information.
2. The Addl. Commissioners of Taxes/Joint Commissioners of Taxes, 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.


Commissioner of Taxes, Assam,
Guwahati-6.