

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

ORDER

Dated Dispur, the 16<sup>th</sup> June/2009.

No. CTS-2/2009/66 : The petition for clarification is filed by M/s North East Pure Drinks (P) Ltd. The petitioner has sought clarification on following questions :

- a) Whether entry tax is applicable to a manufacturing unit engaged in manufacture of goods for sale.
- b) Whether the word consumption, use or sale therein would include consumption, use or manufacture for sale including re-sale therein.
- c) Whether exemption contained in Section 3(4) of the ASSAM ENTRY TAX ACT-2008 includes goods imported for manufacture and sale.
- d) Whether the entry tax paid on machinery would add to the value of investment in the plant & machinery for the purpose of calculation of investment in the plant and machinery.
- e) Any other question which becomes relevant in the context of facts and circumstances of the case to be framed at the time of personal hearing.

The petitioner was heard on 1.6.2009. The petitioner submitted written submissions. The main argument of the petitioner is that the Assam Entry Tax Act,2008 is a successor legislation of Assam Entry Tax Act,2001. In the statement of objects and reasons of the Assam Entry Tax Act,2001, it was stated that the government decided to levy entry tax on selected items for own use or consumption by companies. The petitioner argues that they being manufacturer imports raw materials for consumption in manufacture of goods for resale or machinery for the purpose of use in manufacture. Therefore, they are not liable to pay entry tax under the Assam Entry Tax Act,2008. Further, the raw materials and machineries imported by the petitioner are not available in the State of Assam and imported by the petitioner. They do not intend to deprive the State of the revenue. Further, the imports by the petitioner is in terms of Government policy to increase industrialization, generate employment etc. Also heard the petitioner in detail.

With regard to the contention of the petitioner as stated above, it is made clear that :-

- a) The statement of objects and reasons of 2001 Act does not apply to 2008 Act.
- b) Any tax is levied as per expressed provisions of the law. The expressed provision of law will apply even if it is at variance with the statement of objects and reasons or any Government policy.
- c) The petitioner is mistaken in assuming that levy of entry tax is against industrialization of the State. The purpose of the Assam Entry Tax Act,2008 as is clearly stated in the long title, preamble and objects and reasons is to provide infrastructure and amenities to facilitate trade and commerce within the State of Assam.

- d) Entry Tax is leviable on goods brought into a local area for use or consumption. The machineries brought into a local area are for use in manufacture and the raw materials brought are for use and consumption to produce new goods. The law has been settled by various pronouncements of Hon'ble Supreme Court that entry tax can be levied on machinery brought for use in manufacture and on raw materials brought for use or consumption in manufacture of new goods. Therefore, the contention of the petitioner is not acceptable.

The clarifications to the questions raised above by the petitioner are as follows:-

- a) Entry Tax is applicable on specified goods imported by a manufacturing unit engaged in manufacture of goods for sale.
- b) The words "consumption, use or sale therein" are applicable in case of manufacturing units importing specified goods i.e. plants and machinery for use in manufacture of new goods for sale and raw materials for consumption or use in manufacture of new goods for sale.
- c) Section 3(4) of the Assam entry Tax Act, 2008 gives the State Government power to vary rates of tax on specified goods.
- d) The entry tax paid on machinery will add to the value of investment in plant and machinery for the purpose of calculation of investment in plant and machinery.
- e) Not answered as no further question was put forward in course of hearing.

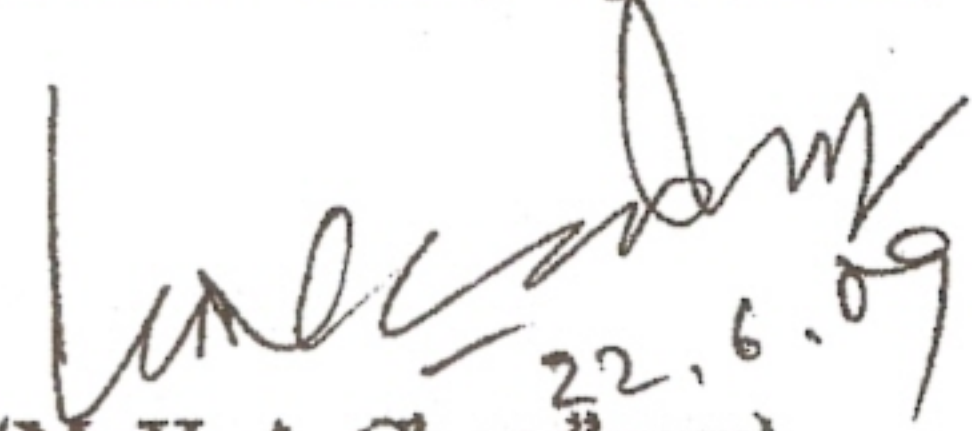
Sd/-( Sanjay Lohiya ),  
Commissioner of Taxes, Assam,  
Guwahati-6.

Dated Dispur the 22<sup>nd</sup> June/2009

Memo No. CTS-2/2009/66-A

Copy to:-

1. The Principal Secretary to the Govt. of Assam, Finance Department, Dispur, Guwahati - 6 for favour of kind information of the Government.
2. The Addl. Commissioner of Taxes/Joint Commissioners of Taxes (All) for information.
3. The Deputy Commissioner of Taxes (All) for information.
4. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information.
5. M/s. North East Pure Drinks (P) Ltd., Bhuban Road, Ujanbazar, Guwahati for information.

  
(M. H. A. Choudhury),

Addl. Commissioner of Taxes, Assam,  
Dispur, Guwahati-6.