

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

ORDER

Dated Guwahati the 2nd January, 2010.

No. CTS- 7/2009/205 : M/s. Candida Enterprise, Kaliram Medhi Road, Ranibari, Panbazar, Guwahati-1, submitted an application under section 105 of the Assam Value Added Act, 2003 seeking clarification as to whether tax is applicable on free goods /bonus of medicine after transposition of the item "Drugs and medicine" form Schedule IV to Schedule II with effect from 31-10-2009. The application is found to be in order, hence admitted.

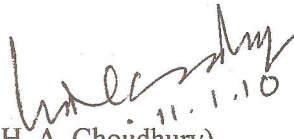
Shri Brojesh Bhattacharjee, Sales Tax Practitioner appeared on behalf of the petitioner and placed his submission. Heard his submission and perused the notification No. FTX. 55/2005/40 dtd. 11-10-2006. It appears that said notification was issued when "drugs and medicine" was taxable under the Fourth Schedule @ 4% on MRP basis. The notification was issued to capture the tax on free supply along with the sale of drugs and medicine. As the item was taxable on MRP basis at first point of sale in the State, if tax were not levied on such item at the first point of sale vide a notification, there would have been loss of Government revenue as retailer while selling such free supply would not have paid tax as per provisions of the Act, though they would have realized price on such goods on MRP basis. However after notification No. FTX-55/2005/Pt-V/194 dtd. 31-10-2009, the item "drugs and medicine" has been brought under Second Schedule of the Assam Value Added Act, 2003 and made taxable at every point of sale within the State. As such no tax on free supplies along with sale at first point of sale of "drugs and medicine" is leviable. However tax is leviable on subsequent sale of drugs and medicine received as free supplies. Therefore the notification No. FTX.55/2005/40 dtd. 11-10-2006 is redundant now and it is clarified that the said notification shall not be applicable now.

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

Memo No. 7/2009/205-A
Copy to :-

Dated Dispur, the 11th January, 2010.

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. Candida Enterprise, Kaliram Medhi Road, Ranibari, Panbazar, Guwahati-1 for information.


(M. H. A. Choudhury),
Addl. Commissioner of Taxes, Assam,
Dispur, Guwahati-6.
