

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

\*\*\*\*\*

ORDER

Dated Dispur, the 1<sup>st</sup> February, 2010.

No. CTS-28/2008/116 : M/s. Power Grid Corporation of India Ltd., Suwarna Bhawan, House No.12,Ulubari, G.S. Road, Guwahati -7 has filed on application under section 105 of the Assam Value Added Tax Act,2003 seeking clarification as to whether "Hiring of vehicle" contract falls under lease transaction as under Sl.3 of the Fifth Schedule of the Assam Value Added Tax Act,2003 and whether TDS @ 12.5% to be charged on the hiring of vehicle. The application is found to be in order, hence admitted.

Shri Chuni Lal Dhar, Senior Accounts Officer appeared on behalf of the petitioner. He submitted that the Auditor of their Corporation have contended that hiring of vehicle is not lease transaction at all nor does it contain any element of purchase or sales. Further contended that no other State Law covers hiring of vehicle under their Sales Tax Laws.

Under the Assam Value Added Tax Act, lease transaction is taxable @ 13.5% w.e.f. 31-10-2009 (before 31-10-2009, it was 12.5%) as per entry at Sl. No. 3 of the Fifth Schedule of the Assam Value Added Tax Act,2003. In a number of court cases, Hon'ble court held that hiring of vehicle on contract basis involves transfer of right to use goods, hence included under lease transaction and is covered by the extended meaning of "sale", hence exigible to tax. It is, therefore, clarified that the petitioner is liable to deduct tax on hiring of vehicle @ 13.5% and deposit the same into the Government account as per provision of section 47 of the Assam Value Added Tax Act,2003 and rules framed thereunder.

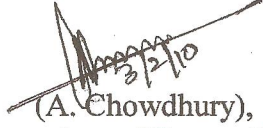
Sd/-Sanjay Lohiya,  
Commissioner of Taxes, Assam,  
Dispur, Guwahati-6.

Memo No. CTS-28/2008/116 -A

Dated Dispur the 3<sup>rd</sup> February,2010.

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. Power Grid Corporation of India Ltd., Suwarna Bhawan, House No.12,Ulubari, G.S. Road, Guwahati -7for information.

  
(A. Chowdhury),  
Superintendent of Taxes, (Law),  
Office of the Commissioner of Taxes, Assam,  
Dispur, Guwahati-6.

\*\*\*