

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

ORDER

Dated Guwahati the 24th Sept, 2010.

No. CTS-21/2005/162 : M/s. Bhura Tyre and Tread, Sonai Road, Silchar-6 filed an application under Section 105 seeking clarification on the following issues—

- “1) What will be the rate of tax on our transaction where we undertake the re-treading job on Tyre belonging to others ?
- 2) What will be the position of transaction that took place where the tax rate was charged @ 4% based on Circular No. CTS-78/2007/149-A dtd. 07-07-08.
- 3) If at all the tax liability attracts as per the new Circular than on and from which date the subsequent Circular No. CTS-78/2007/193-A dated 24-05-2010 shall be effected ?”

Shri V.K. Sureka, Tax Consultant appeared on behalf of the petitioner. He submitted that the petitioner undertakes re-treading job on Tyre supplied by the customers. They also pay “service tax” on such transaction. After the clarification order issued vide memo No. CTS-78/2007/149-A dated. 07-07-08, they presumed that the items used for re-treading of tyres shall be taxable @ 4% (now 5%), if the tyres belongs to the purchaser and in other case, i.e. when there is a sale of “re-treaded tyres,” the tax rate shall be 12.5% (now 13.5%). He also submitted that in view that “re-treading job” done on purchasers’ tyre, where there is no purchase and sale of tyres, is and should be 4% (now 5%) and in case where there is direct purchase and sale of such re-treaded tyre, the rate of tax should be @ 12.5% (now 13.5%).

Perused the submission as well as the clarification order and circular under question. It appears that the clarification was issued on taxability of cushion compound, cushion gum and rubber solution under Assam Value Added Tax Act, 2003,. The clarification is not about taxability on re-treading Job. The petitioner seems to have misinterpreted the order. In fact, the circular was issued after getting some information about such possible this misinterpretation. As such the circular under question clarifies the whole issue. It is a fact that re-treading job with the involvement of any material transfer comes under ambit of works contract which is taxable 12.5% (now @ 13.5%). The rate of tax is in the statute itself and as such needs no clarification. Whereas the clarification under question was regarding some items used in the process of re-treading. Therefore, there is no question of clarifying the process of re-treading to be taxable 4%

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In view of the position, the answers to the question of the petitioner can be given as below-

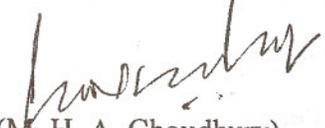
- 1) The rate of tax on re-treading job on tyre belonging to others is 13.5% (earlier 12.5%)
- 2) The tax shall be 13.5% (before 01-11-2009-12.5%) that took place even after issuance of clarification order dtd.07-07-2008.
- 3) The rate of tax on re-treading job shall be 13.5% as per the rate prescribed in the statute.

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

Memo No.CTS-21/2005/162 -A
Copy to :-

Dated Dispur, the 27th Sept., 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. Bhura Tyre and Tread, Sonai Road, Silchar-6 for information.


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

M. H. A. Choudhury
27/09/2010