

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

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ORDER

Dated Guwahati the 20<sup>th</sup> Dec., 2010.

No. CTS-7/2009/254: M/s. Sanskriti, The Gurukul, Vill-Gogh, Garchuk, Near DPS, Guwahati-35 has filed an application under section 105 of the Assam Value Added Tax Act, 2003 seeking clarification as to whether---

- 1) Educational Institution of the petitioner is required to obtain any registration under the Assam Value Added Tax Act, 2003 ?
- 2) Whether service of food, drinks etc. provided to students by their institution fall under the meaning of purchase and sale?

Shri V.K. Sureka, Tax Consultant and authorized representative and Shri S.K. Sureka, Advocate appeared on behalf of the petitioner and placed their submission. They submitted that the institution is having Day Boarding facility and therefore, they are providing them with all the facilities including food so that the students can get fresh food and drinks. Further it is also submitted that they do not have any canteen for sale/ service of food and they are also not charging any extra amount from the students for providing such services. School fees includes cost of tuition, transportation and food. They also submitted that as per Explanation -II attached to section 2 (15) after clause (ix) under the Assam Value Added Tax Act, 2003, their Educational Institution should not fall under the definition of "Dealer", hence not liable for payment of tax under the Assam Value Added Tax Act, 2003.

Perused the submission. The provision of the Assam Value Added Tax Act, 2003 is also examined. It appears that the fees is composite in nature consisting all such as tuition, transportation and food. Further, as the institution is providing food to its student as a part of school service, the petitioner shall not come under the definition of "dealer" as per Exception-II to section 2 (15) of the Assam Value Added Tax Act, 2003. Therefore they are not liable to pay tax for providing food and drinks to its student.

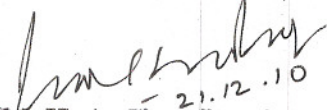
Sd/-(Sanjay Lohiya),  
Commissioner of Taxes, Assam,  
Dispur, Guwahti-6.

Memo No.CTS-7/2009/254 -A

Copy to :-

Dated Dispur, the 21<sup>th</sup> Dec., 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. Sanskriti, The Gurukul, Vill-Gogh, Garchuk, Near DPS, Guwahati-35 for information.

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