

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

ORDER

Dated Dispur, the 9th August, 2012.

No. CTS-21/2005/331 : M/s L.S. Cable & System Ltd., S-37, 1st & 2nd floor, Green Park, Main Market, New Delhi-110016 filed a petition under Section 105 of the Assam Value Added Tax Act, 2003 seeking clarification on the following points :-

- (1) Whether he is liable to be registered under Assam Value Added Tax Act, 2003?
- (2) Whether he is liable to pay VAT on the execution of onshore services contract?
- (3) Whether any TDS is liable to be deducted under section 47 on payment against the onshore services contract?

Shri O.P. Agarwalla appeared on behalf of the petitioner and filed his submission.

He submitted that -

“ The Applicant Company has been awarded a project for supply & Installation of OPGW cable under the OPGW Package for NKN Links (478 Km) in ER/NER region. The project is awarded through three different contracts which are as follows :-

1. Off-shore Supply Contract (for supply of goods from outside the Country).
2. On-shore Supply Contract (For supply of goods from other States within the Country).
3. On-shore Services Contract (Installation work in the State of Assam).

The sale of goods in the first contract falls under the category of sales and purchases in course of import and export and accordingly the same is exempted from Sales Taxes.

The sale of goods in the second contract falls under the ambit of sales in course of inter-State trade or commerce and the tax is liable to be paid by the applicant company in the State from which the movements of the goods originated.

There is no sale (Deemed or otherwise) in the 3rd Contract as because the said contract is for services only and no transfer of property will be made in execution of the said service contract.”

Further, he also produced a certificate from the contractee M/s Power Grid Corporation of India Ltd. in which it has been certified that in execution of the said service contract, there will be no transfer of property of goods from the applicant contractor. The contractee M/s Power Grid Corporation of India Ltd. had issued a letter to the applicant asking him to get registered under the AVAT Act, 2003. He also furnished the contract document which is examined.

It is clear from the contract that the contractee has made three contracts with the contractor. In the first contract, goods will be supplied from outside the country. Hence, it is outside the purview of AVAT Act, 2003. Hence, no liability under the AVAT Act, 2003.

In the second contract, the contractee shall supply goods from other States within the Country. Such transaction will come under the CST Act, 1956. Hence, there will be no liability under the AVAT Act, 2003.

In case of service contract, i.e. installation of such supplied goods, it is found that there is no transfer of property of goods in the whole transaction. Therefore, it will amount to service contract only involving labour charges. Hence, it will not come under the purview of AVAT Act, 2003.

In view of the above, following clarification are issued :-

(1) From the above observation, it is clear that the petitioner has no liability under the AVAT Act, 2003.

(2) As already clarified above, the petitioner is not liable to pay VAT on the execution of service contract.

(3) As there is no liability under the AVAT Act, 2003 hence there is no question of deduction of tax at source.

Sd/- Dr. J.B. Ekka,
Commissioner of Taxes, Assam,
Guwahati-6.

Memo No. CTS-21/2005/331-A

Dated Dispur, the 14 August, 2012.

- Copy to
1. The Principal Secretary to the Government of Assam, Finance Department, Dispur, Guwahati-6 for favour of kind information of the Government.
 2. The Addl. Commissioners of Taxes/Joint Commissioners of Taxes(All) for information.
 3. The Deputy Commissioner of Taxes (All) for information.
 4. The Assistant Commissioner of Taxes, Superintendent of Taxes(all) for information.
 5. M/s L.S. Cable & System Ltd., S-37, 1st & 2nd floor, Green Park, Main Market, New Delhi-110016, for information.

(R.D. Borah),

Joint Commissioner of Taxes, Assam,
Guwahati-6.

R.D. Borah
13/8/2012