

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

ORDER

Dated Guwahati the ²⁴th August, 2012.

NO.CTS-50/2011/270 M/s Raitel Corporation of India Ltd., House No. 41, Md. Taybullah Road, Dighalipukhuri, Guwahati has filed an application under Section 105 of the Assam Value Added Tax Act, 2003 seeking clarification as to whether the consideration received by the petitioner against its business of giving it hiring/leasing of bandwidth is taxable under the provision of the Assam Value Added Tax Act, 2003.

Shri Anup More, C.A. appeared on behalf of the petitioner and filed his submission. He submitted that light energy which is used as a carrier in telecommunication service for rendering service is not goods as per provision of the Assam Value Added Tax Act, 2003. Hence, there is no element of sale in the contract. Hence, it is covered under service tax and they are paying service tax on the said business. He also furnished a copy of judgement and order dated 25th Feb., 2011 in case of M/s Bharati Airtel Ltd. -Vs- State of Karnataka judgement and the copy of contract agreement which are perused.

It is found that a circular was issued by the Commissioner of Taxes, Assam where-in it was stated that the Hon'ble Karnataka High Court in case of Bharati Airtel Ltd. -Vs- State of Karnataka (2009) 22GST 465(Kar) held that provision of Broadband connectivity to subscriber for fixed sum through optic fibre cable is exigible to tax as lease rental. However, in view of judgement of division bench of Hon'ble Karnataka High Court where-by the above mentioned judgement is overruled and held that such transaction cannot be treated as sale in view of said position it is clarified that the consideration received by the petitioner against such business of giving of hire leasing bandwidth is not taxable under the provision of Assam Value Added Tax Act, 2003.

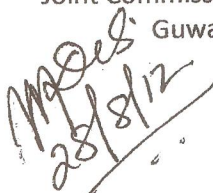
Sd/- Dr. J.B. Ekka,
Commissioner of Taxes, Assam,
Guwahati-6.

Memo No. CTS-50/2011/270-A

Dated Guwahati the ²⁹th 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 Raitel Corporation of India Ltd., House No.41 Md. Taybullah Road, Dighalipukhuri, Guwahati for information.


(R.D. Borah),
Joint Commissioner of Taxes, Assam,
Guwahati-6.


28/8/12