

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

ORDER

Dated Dispur, the 16th October, 2012.

No. CTS-21/2005/340: M/s Badri Rai & Co., Station Road, Duliajan has applied for clarification under Section 105 of the Assam Value Added Tax Act, 2003 seeking clarification on the following issues :-

1. In case of a works contractor what is the applicable rate of works contract tax under AVAT, 2005 for the work completed before 31st March, 2012 and bills raised before 31st March, 2012 but payment made after 31st March, 2012?
2. Should Notification No. FTX.55/2005/Pt/158 dtd 31.03.2012 effect the Bills which has been raised for transfer of property during March, 2012 but payment made during April, 2012?
3. What is the point of taxation for Work Contract Tax under AVAT, 2005 for a work contractor who submits running bills as and when the milestone determined by the contractee is reached?

Smti Punam Choudhury, C.A., Authorised Representative of the petitioner appeared and filed her submission. She submitted that-

“ The materials were incorporated in the execution of work contract in the month of March, 2012. So the transfer of property in such goods took place in the Financial Year 2011-12. It may be noted that the rate of tax applicable to a work contractor opting for composition scheme was 4% for Financial Year 2011-12 and hence the tax that needs to be deducted shall be at 4% only. Merely because the amount of consideration was paid in the next fiscal year, i.e. FY 2012-13 the rate of tax which was raised to 5% vide notification no. FTX.55/2005/Pr/158 dtd. 31.03.2012 for that fiscal year cannot be applied and should not be applied to the transaction pertaining to previous year.”

Perused her submission and the following clarification is issued :-

1. The applicable rate of works contract tax under AVAT Act, 2003 for the works completed before 31st March, 2012 shall be @4% if the works contractor has opted for composition scheme for works contract and has a valid WC(2), it is immaterial when the bill is raised or payment is made.
2. The Notification No. FTX..55/2005/Pt/158 dtd. 31.3.2012 has enhanced the rate of tax to 5% from existing 4% for the works contractor opting for composition scheme and the said notification has been given effect from 1st April, 2012. Therefore, any works completed prior to 1st April, 2012 shall be taxable @4% irrespective of the date of payment.
3. For running bills the following logic shall apply i.e. running bills raised against works completed up to 31st March, 2012 shall be taxable @4% under the composition scheme for works contractor and running bills raised against execution of works contract completed after 1.4.2012 shall be taxable @5%.

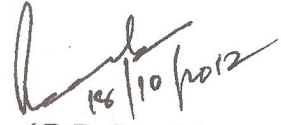
Sd/-
(Dr. J.B. Ekka),
Commissioner of Taxes, Assam,
Guwahati-6.

Memo No. CTS-21/2005/340-A

Dated Dispur, the 19 October, 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 Badri Rai & Co., Station Road, Duliajan, for information.



(R.D. Borah),

Joint Commissioner of Taxes, Assam,
Guwahati-6.

M Des
18/10/2012