

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

ORDER

Dated Dispur, the 28th February, 2013.

No. CTS-71/2007/229 : M/s Homtek India Agro Foods, Rani Satiji Marg, Fancy Bazar, Guwahati-1 filed an application under Section 105 of the Assam Value Added Tax Act, 2003 seeking clarification as to whether expansion of existing unit, which is already availing exemption since 2005, by 25% increase in value of original fixed capital investment is permissible for claiming exemption under the Assam Industries (Sales Tax Exemption) Scheme, 2009 in view of insertion of Rule 57A(k) of the Assam Value Added Tax Rules, 2005 w.e.f. 3.11.2009.

Shri G.K. Joshi, Advocate and Shri R.K. Joshi, Advocate appeared on behalf of the petitioner and filed their submission. They submitted that the petitioner is engaged in manufacture and sale of 'Snacks food'. They are enjoying remission of tax under the Assam Industries (Tax Remission) Scheme, 2005 from 01.05.2005 to 15.01.2014. Now they are proposing to undertake substantial expansion as category "B" of the Assam Industries (Tax Exemption) Scheme, 2009 and as defined under the said scheme they are required to make additional fixed capital investment in plant and machinery at least 25% of the original investment. In addition to that they are also required to increase the employment by at least 10% as well as increase the production by 25% compared to average annual production of previous 3 years. However, they are engaged in manufacture and sale of 'Snacks food', which is not treated as manufacture under the Assam Value Added Tax Rules, 2005 if investment in plant and machinery in a unit is less than Rs.5 crore.

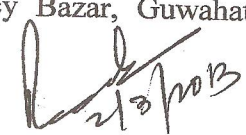
Perused the submission. As per Assam Value Added Tax Amendment Rules vide Govt. Notification No. FTX.55/2005/Pt-VI/41 dt. 3rd November, 2009 published in Assam Gazette Ordinary No. 351, certain activities are declared not to be treated as manufacture and as per Clause (k) in Rule 57A production of food, sweetmeats and namkins are not manufacture if the investment in plant and machinery in a unit is less than Rs.5 crore. Therefore, if investment in plant and machinery after expansion does not exceed Rs. 5 crore than the petitioner shall not be entitled to get exemption under Assam Industries (Tax Exemption) Scheme, 2009.


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

Memo No. CTS-71/2007/229-A
Copy to :-

Dated Dispur, the 4th March, 2013

- 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 Homtek India Agro Foods, Rani Satiji Marg, Fancy Bazar, Guwahati-1 for information.


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


21/3/2013.