

GOVERNMENT OF ASSAM
OFFICE OF THE COMMISSIONER OF TAXES:::ASSAM:::GUWAHATI.

ORDER

Dated Dispur, the 24th September, 2013.

No. CTS-6/2009/429: M/s Brahmaputra Tele-productions Pvt. Ltd. has filed an application as per provision of section 105 under the Assam Value Added Tax Act, 2003 read with section 9 of the Assam Entry Tax Act, 2008 to review the order No. CTS.6/2009/302 dated 02.04.2013.

The brief background of the case is that the petitioner filed an application under section 105 of the Assam Value Added Tax Act, 2003 read with section 9 of the Assam Entry Tax Act, 2008 seeking clarification as to whether the items, namely- C-Band, KU-Band, Satellite receiver, 1.8 Mtr Antenna, Modem, Set-top Box, Encoder, 4104 Coles Lip Mic, Digital Hybrid Mobile are taxable under the Assam Entry Tax Act, 2008 or not. After hearing the matter as per provision of section 105 of the Assam Value Added Tax Act, 2003, order No. CTS.6/2009/302 dated 02.04.2013 was passed. Aggrieved by the order, the petitioner filed the review petition.

Dr. A.K. Saraf, senior Advocate appeared on behalf of the petitioner and filed submission. He submitted that the items mentioned will not fall within the purview of entry at serial number 3 of the Schedule attached to the Assam Entry Tax Act, 2008 because the ratio decidendi of the decision of the Division Bench of Hon'ble Gauhati High Court in the cases of Sterlite Optical Technologies Ltd. -vs- Oil India Limited (2008) 1GLR 388 and Excellent Gravure Industries -vs- State of Assam and others (2012) 56 VST 129 (Gau) is squarely applicable in the present case and applying the law laid down by the Gauhati High Court.

Perused the submission, entries of Schedule under Assam Entry Tax Act, 2008 as well as the decision of the Hon'ble Court. It is found that the decisions of the Hon'ble Court are squarely applicable in the present case. However as already mentioned in earlier order, the entry at serial number 4 of the Schedule attached to the Assam Entry Tax Act, 2008 reads as "Television sets both coloured and black and white, videocassette recorders, video cassette players, video cassette tapes, **wireless reception instrument and apparatus** and radios and parts there-of". The items except Set-top Box and Encoder mentioned above are wireless reception instrument and apparatus used for broadcasting for television. As such it is clarified that the items mentioned shall be covered under the entry at serial number 4 of the Schedule attached to the Assam Entry Tax Act, 2008. As Set-top Box and Encoder is not mentioned in any entry under said Schedule, no entry tax is payable on such items. Further wireless modem shall also be taxable under entry at serial number 4 of said Schedule.


Sd/-Dr. J.B. Ekka, I.A.S
Commissioner of Taxes, Assam,
Guwahati.


Memo No. CTS-6/2009/429-A

Dated Dispur, the 25th September, 2013.

Copy to:-

1. The Additional Chief Secretary to the Government of Assam, Finance Department, Dispur for favour of kind information.
2. The Addl. Commissioners of Taxes/Joint Commissioners of Taxes (All), Head Office for information.
3. The Deputy Commissioners of Taxes, Zones (All) for information.
4. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information and necessary action.
5. M/s Brahmaputra Tele-productions Pvt. Ltd for information.


(Mrs. R.D. Borah),
Addl. Commissioner of Taxes, Assam,
Guwahati.


25/9/13