

GOVERNMENT OF ASSAM
OFFICE OF THE COMMISSIONER OF TAXES ::: ASSAM ::: KAR BHAWAN
GUWAHATI

ORDER

Dated Dispur the 3rd March/2016.

No.CTS-43/2011/172 : The Eastern Aluminium Industries, Jorhat, Assam filed a representation on 20.12.2012 seeking review of the clarification issued vide order No. CTS-21/2005/113 dt. 4.3.2010.

The brief facts leading to filing of such review petition are as follows:

The above quoted clarification was issued by this Commissionerate at the instance of Superintendent of Taxes Jorhat seeking clarification whether entry tax was leviable on circular (round) shaped pieces of aluminium imported by M/S Eastern Aluminium Industries, Jorhat into local area of Assam for use in manufacture of utensils. It was then clarified from this end that the round shaped pieces of aluminium essentially being "aluminium plain sheet" enumerated at Sl.No. 34 of the Assam Entry Tax Act' 2008 Schedule would attract entry tax. Being aggrieved with the above clarification, the manufacturing firm filed Writ Petition (civil) No.3807/2011. After evaluating the submissions and materials present before it, the Hon'ble Court referred the matter back to the undersigned for taking a fresh decision after looking into the aspects pleaded by the petitioner firm as well as other relevant aspects.

Accordingly, a fresh hearing in the case was taken. In course of the latter hearing, the petitioner firm submitted following pleadings and documents.

1. The aluminium circles imported by him is understood and recognized as a distinct and separate item apart from aluminium plain sheet in common or commercial parlance of the related trade, industry and people dealing with such items.
2. Aluminium plain sheet and aluminium circle are separate commercial commodities or articles even in regard to their uses. Whereas aluminium circles described as circular (round) shaped pieces of aluminium in the earlier clarification order are generally used as raw material for the manufacture of utensils, pressure cooker etc, aluminium plain sheet has a wide use and application in construction works (roofing), in building truck, bus and aeroplane bodies etc.
3. The petitioner firm has enclosed a copy of clarification issued by the office of the Director General of Foreign Trade (DGFT), Govt. of India to one M/S Binayak Aluminium Pvt. Ltd., Cuttack, Orissa, vide No. 6(1)/1PC/CTC/clarification/2006-07 dated 13/04/2010 informing that aluminium circle is of different connotation from aluminium sheet or plate in their parlance.
4. The petitioner firm has also cited the clarification No. CTS-83/2007/174 dated 07/07/2009 issued by this commissionerate wherein the item HR Coil was held as not covered by the entry at Sl. No. 50 of The AET Act Schedule bearing description "plain and corrugated iron sheet whether hot or cold rolled".

Now on afresh examination of the materials and evidences adduced in the matter bring forth the position that aluminium circles or round pieces of aluminium are commercially different from aluminium plain sheets. These are also different when applied the user test. Even as per standard Input Output Norms (SION) Handbook Vol.II of the Director General of Foreign Trade, Govt. of India, the two items appear to be classified separately. Considering the fact that SION prescribe the amount of input required to manufacture unit of output for export purpose, the present case also appears to be overwhelmingly analogous to the clarification issued in the case of HR coil vide No. CTS-83/2007/174 dated 07/07/2009.

It has therefore, become necessary to review our earlier clarification order No. CTS-21/2005/113 dated 04/03/2010 pertaining to the case and accordingly Govt. was moved to accord permission for review of the clarification, vide this office letter No. CTS-43/2011/62 dt.4.3.2015. Govt. was kind enough to accord permission to review the clarification vide their letter No. FTX.60/2013/19 dt. Dispur, the 18th April'2015.

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Therefore, in supersession of earlier clarification on No. CTS-21/2005/113 dt. 4.3.10, it is hereby clarified that the item aluminium circle is not comprehended by entry serial No. 34 reading "aluminium plain sheet" of the Assam Entry Tax Act, schedule. However, it is further clarified that entry serial No.68 of the said schedule comprehends all items taxable under the Assam Value Added Tax Act, 2003 excepting, "raw materials directly used in the manufacture of goods other than those raw materials covered by existing entries of this schedule".

With the above observation, the review petition is disposed of.


Sd/-
(Anurag Goel)
Commissioner of Taxes, Assam
Dispur, Guwahati-06

Memo No.CTS-43/2011/172-A

Dated Dispur, the 7th March, 2016.

Copy to :-

1. The Principal Secretary to the Govt. of Assam, Finance Department, Dispur, Guwahati - 6 for favour of kind information of the Government.
2. The Addl. Commissioner of Taxes/Joint Commissioners of Taxes (All) for information.
4. The Deputy Commissioner of Taxes (All) for information.
5. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information.
6. M/s. Eastern Aluminium Industries, A.T. Road, Jorhat-785001 for information.


(A. Choudhury)
Joint Commissioner of Taxes, Assam,
Dispur, Guwahati-6.

