

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

ORDER

Dated Dispur, the 10<sup>th</sup> March, 2015.

No.CTS-43/2011/164 : M/s. Shreema Stone Crusher, Tarapur, Shivbari Road, Silchar-788008 has submitted an application U/s 105 of the AVAT Act, 2003 for determination of the rate of tax of stone product.

Shri Anirban Dey, authorized representative appeared on behalf of the firm and placed his submission. He submitted that the applicant is running two stone crushing unit in Borkhola and Hilara in Cachar District, Assam.

He has contended that as per Hon'ble Supreme Court Judgement order no.19628-19629 of 2009 and Assam Gazette Notification, stone products are included in the list of minor minerals and therefore they should be taxable @4% as per 2<sup>nd</sup> Schedule of the said Act.

Perused the submission and the provisions of the AVAT Act, 2003 are examined.

On plain reading of the judgement order as referred by the applicant it appears that the matter involved in the order of Hon'ble Supreme Court has no relevance with the question of taxability of stone products.

Firstly, it is to be clarified that the entry at Sl. No.-45 of the 2<sup>nd</sup> Schedule reads as "Ores & minerals" in a collective meaning. As per definition an "ore" is a mineral from which metal can be extracted economically and a "mineral" is the native form in which the metal exists. The stone products viz, stone chips, stone dusts etc. which are processed by the stone crushing plants are generally used in the construction purposes and therefore cannot be treated as ores & minerals.

Further, the stone materials which are brought from the quarries or river beds after extraction in the same raw form are treated as minerals and are subjected to the payment of royalty. Whereas the stone processed by the stone crushing plants into different size have different market values not similar to that of the stones brought in the raw form and are not subjected to the payment of royalty. Hence stone product shall not be classified as ore and mineral.

However, the rate of tax on stone chips and boulder was reduced from 13.5% to 5% w.e.f. 26.06.2013. Hence, the current rate of tax on stone chips and boulder is 5% as per entry at Sl. No.125 of Second Schedule, Part-A of Assam Value Added Tax Act, 2003. The current applicable rate of tax on other stone products is 14.5% as per entry at Sl. No.1 of the Fifth Schedule of the Act.

Sd/-  
(Dr. Ravi Kota)  
Commissioner of Taxes, Assam,  
Guwahati-6.

Contd. P/2


//2//

Memo No.CTS-43/2011/164-A

Dated Dispur, the 19<sup>th</sup> March, 2015.

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.
3. The Deputy Commissioner of Taxes (All) for information.
4. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information.
5. M/s. Shreema Stone Crusher, Tarapur, Shivbari Road, Silchar-788008 for information.

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

19/3/15  
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