

GOVERNMENT OF ASSAM
OFFICE OF THE COMMISSIONER OF TAXES:::ASSAM:::GAUHATI

ORDER

Dated Dispur, the 18th February, 2016

No. CTS-50/2015/42 - This application is filed by the petitioner Khagaul Loco Labour's Cooperative Society Ltd., House No.-18, Near Narengi Ganesh Mandir, Guwahati-781026 seeking clarification as to whether VAT is applicable in out sourcing job of A. C coach attendant for distribution of bedroll and blanket in A.C. Coaches.

The application in Form-76 is in conformity with the provisions of Rule 57 of the Assam Value Added Tax Rules, 2005, and accordingly it is taken up for consideration in consistent with the provision of section 10 and section 11 of the Assam Value Added Tax Act, 2003.

On perusal of the application it is found that the petitioner is granted with a GRN bearing No. 18220214588 by the jurisdictional Prescribed Authority, Gauhati in accordance with the provisions of section 20(2) of the said Act.

Perused the work order awarded by the contractee senior CDO, Gauhati N.F. Railway vide contract agreement No. CA No.: GHY/Sr. CDO/AC Attendent/08 of 2015-16 dated 04.11.2015 and found the name of the work nomenclature by the contractee is 'out sourcing the job of A.C. Coach attendant for distribution of Bedroll in A.C. Coaches of Gauhati/ Kamakhya based train for a period of 2 years for Rs. 54684510/-.

On scrutiny of Annexure- A of the application pertaining to scope of work and job list for A.C. Coach attendant in trains it is found that the works contract is purely a labour and service contract as there involve no transfer of property in goods in any form between the contractor and the contractee and as such it is not exigible to tax in view of the provision of clause (c) of section 11 read with Rule 10 of the Assam Value Added Tax Rules, 2005. But in view of the provisions of sub-section (2) of section 20 of the said Act, the petitioner is liable to pay VAT @ 5% in consistent with the conditions contained in Govt. Notification No. FTX-55/05/Pt/14 dated 29.04.2005 published in the Assam Gazette Extraordinary No. 161 dated 29.04.2015 with special reference to conditions contemplated at Para 10 of the said notifications which interalia reads thus "Every dealer who has been granted a permission by the Prescribed Authority under this Scheme shall be liable to make payment of tax under this Scheme monthly calculated at five percent of the payments receivable by him during the month for execution of the contract. The payment of tax so calculated shall be made after reducing therefrom the amount paid by the contractee on behalf of the dealer under Section 47 for that month, on or before the twenty first day of the next month. The dealer shall furnish a tax return for each quarter in Format WC-3 appended herewith within twenty one days of the succeeding month from the date of expiry of each quarter. The dealer shall also furnish a consolidated annual return in the same Form to the Prescribed Authority within two months after the close of the year to which such return relates. The tax return shall be accompanied by proof of full payment of the tax due, in accordance with Rule 26 and the certificate of deduction of tax at source issued by the contractee." Thus, so long the GRN of the petitioner subsist then, the petitioner is liable to pay VAT @ 5% irrespective of whether transfer of property in goods takes place in execution of works contract or not.

From the above Para it is amply clear that the petitioner is liable to pay VAT @ 5% and accordingly the petition of the petitioner stands dispose of in favour of the revenue and against the petitioner and it is therefore clarified that the petitioner is liable to pay VAT @ 5% against the aforesaid contract.

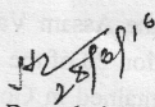
Sd/-Anurag Goel, IAS
Commissioner of Taxes, Assam
Gauhati

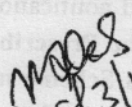
Memo No. No. CTS-50/2015/42-A

Dated Gauhati 28th March, 2016

Copy to:

1. The Principal Secretary to the Government of Assam, Finance Department, Dispur for favour of kind information.
2. The Additional Commissioner of Taxes/ Joint Commissioners of Taxes (All), Head Office for information.
3. The Deputy Commissioner of Taxes, (All) for information.
4. The Assistant Commissioner of Taxes, (All) for information.
5. M/s Khagaul Loco Labour's Cooperate Society Ltd., House No.- 18, Near Narengi, Ganesh Mandir, Gauhati- 781026 for information.


(H. Borgohain)
Joint Commissioner of Taxes, Assam
Gauhati


28/3/16
