

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

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ORDER

Dated Dispur, the 29<sup>th</sup> August, 2009.

No. CTS-2/2009/140: M/s. Dynamic Techno Medicals Pvt. Ltd., C/o NEESANT, Down Town Hospital Complex, Guwahati-6 has filed an application under section 105 of the Assam Value Added Tax Act, 2003 and sought clarification on the rate of tax of a number of items which are Orthopedic appliances used for preventing or correction bodily deformities or for supporting or holding organs followed by illness or operations. The application is found to be in order, hence admitted.

Shri Angushman Dutta, Authorised Representative appeared on behalf of the petitioner and placed his submission. He submitted that the items orthopedic appliances are used by orthopedically handicapped persons for preventing or correcting bodily deformities or for supporting or holding organs followed by illness or operations. Walking Aids are used by physically handicapped persons, either temporarily or permanently. Fracture appliances and splints are used for setting fractures. Traction appliances, Cervical and Spinal Braces are appliances which are worn, carried or used externally to compensate for a defect, disability or a deformity. All the above appliances are aids and implements used by handicapped persons, either temporarily or permanently. He further submitted that as per entry at serial No. 2 of the First Schedule, aids and implements used by handicapped persons are exempted under the Assam Value Added Tax Act, 2003 and the items under consideration are used by handicapped persons, hence will be exempted from tax. He also submitted relevant entries in other States.

Perused the submission and the literature submitted by the petitioner. The entry at the Schedule examined. As per entry "Aids and implements used by handicapped person" is exempted under the Assam Value Added Tax Act, 2003. In other States like, Maharashtra & <sup>and</sup> Kerela, detailed entries including fracture appliance, all kinds of orthopedic appliances are listed. The examination of the literature produced by the petitioner on different items, it is seen that many of the appliances are used by patients for supporting organs after injury or after operation for a certain period of time. It cannot be said that all orthopedic appliances are used by handicapped persons, many are used for limited period and for limited purpose. Such items are not covered by any entry at First, Second, Third and Fourth Schedule of the Assam Value Added Tax Act, 2003 and, therefore, are taxable @12.5% as per entry at Sl. No. 1 of the Fifth Schedule of the Assam Value Added Tax Act, 2003. However, some of the items are used by handicapped persons. Therefore, such items will come under the entry at Sl. 2 of the First Schedule and are exempted items. It is, therefore, clarified that the rate of tax applicable on individual appliances will be as under—

12.5% category	Exempted items
1. Soft cervical collar.	1. Rehaid axillary crutches.
2. Hard cervical collar.	2. Elbow crutches.
3. Cervical immobilizer (Top Phil).	3. Quadripod.
4. Cervical traction kit.	4. Tripod.
5. Clavicle brace.	5. Rehaid walking frame.
6. Thoraco lumbar appliance.	6. Walking stick.
7. Chest brace with sternal pad.	
8. Hyper extension brace.	

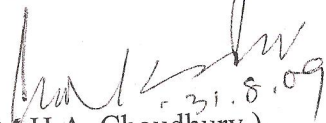
<p>9. Abdominal corset.  10. Lumbo sacral corset.  11. Pelvic traction.  12. Arm sling.  13. Shoulder immobilizer.  14. Cock up splint.  15. Frog splint.  16. Finger extension splint.  17. Finger cot.  18. wrist splint.  19. OST surgical corset.  20. Tennis elbow support.  21. Ankle brace.  22. Foot drop splint.  23. Knee brace.  24. Knee immobilizer.  25. Flexnit genu ML.  26. Flexnit genu Ortho.  27. Knee brace with limited motion (LMKB).  28. Leg traction appliance.  29. Skin tract.  30. Ortho ankle traction.</p>	
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Sd/-Sanjay Lohiya,  
Commissioner of Taxes, Assam,  
Guwahati.

Dated Dispur, the 31<sup>st</sup> August, 2009.

Memo No. CTS-2/2008/140-A  
Copy to :

1. The Principal Secretary to the Government of Assam, Finance (Taxation) Department, Dispur for favour of kind information.
2. The Addl. Commissioners of Taxes, Assam (All) for information.
3. The Joint Commissioners of Taxes, Assam (All) for information.
4. The Deputy Commissioners of Taxes, Zones & Appeals (All) for information.
5. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information.
6. M/s. Dynamic Techno Medicals Pvt. Ltd., C/o NEESANT, Down Town Hospital Complex, Guwahati-6 for information.

  
( M.H.A. Choudhury ),  
Addl. Commissioner of Taxes, Assam,  
Guwahati.

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