

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

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ORDER

Dated Dispur, the 22<sup>th</sup> November, 2010.

No. CTS-77/2007/270: M/s. Hindustan Trading Corporation, Kamarpatty, Fancy Bazar, Guwahati filed an application seeking clarification—


- (i) What is the rate of tax on icing sugar w.e.f. 03.04.2010 ?
- (ii) What is the rate of tax on icing sugar prior to 03.04.2010 ?

Shri Anupam Chakraborty, Advocate appeared on behalf of the petitioner and placed his submission. He submitted that by order No. CTS-41/2007/117 dated 13.03.2009, it was clarified that 'icing sugar' is not sugar as in common parlance that the same cannot be regarded as sugar and, therefore, the rate of tax was clarified as 12.5%. Later in the case of M/s. Gaurav Associates, it was again clarified vide order No. CTS-41/2007/203 dated 11.12.2009 with the observation that "even if icing sugar is considered as sugar, additional excise duty is not levied on it. Therefore, it will be taxable @13.5%.....". He submitted that as per Notification No. FTX.55/2005/Pt-VI/51 dated 03.04.2010, the entry at Serial No. 36 of the First Schedule is amended and now the entry read as "sugar". In view of the present changes in law, further clarification in this issue is required. The petitioner states that "Sugar as defined in the Central Excise Tariff Act, 1985 adopted in section 14(vii) of the Central Sales Tax Act, 1956 (Central Act No. 74 of 1956) (CST Act) and is a declared article "Sugar" under the said Central Tariff Act, 1985 means any form of sugar in which the sucrose content would be more than 90% and therefore it includes "Icing Sugar" because the sucrose content of icing sugar is more than 90%. We, therefore, are of the view that "Icing Sugar" is to be taxed @4% under Entry 23 of Second Schedule of the AVAT Act, 2003 for the period from 01.05.2005 to 30.10.2009 and @4% under Entry 6 of Third Schedule w.e.f. 31.10.2009 to 02.04.2010 since the rate of tax on "Icing Sugar", a declared goods, cannot be more than @4% under section 15(a) of the CST Act. We claim that the "Icing Sugar" is exempted w.e.f. 03.04.2010 under Entry 36 of First Schedule. "Sugar" as defined in the Central Excise Tariff Act, 1985 adopted in section 14(vii) of the Central Sales Tax Act, 1956 (Central Act No. 74 of 1956) (CST Act) to be adopted in deciding our said claim for exemption under the State Act."

In this regard Delhi High Court in the case of Commissioner of Sales Tax Vs. Puran Chand and Sons (STR No. 6&7 of 1973) held that "It is settled law as far as taxing statutes are concerned that unless a term is otherwise specifically defined, words must be understood in the manner a common man would understand them and terms must be given a meaning which is given in the commercial world. Importing of dictionary meanings is not justified, when a word or a term is of common use and well-understood. Sugar is a well-known commodity both in common parlance and in the commercial world. By no stretch of imagination can icing sugar be termed as sugar. Indeed, all the authorities including the Financial Commissioner are agreed on that point. It is also a cardinal principle of interpretation of statutes that unless it is necessary or specifically provided, definition in one statute cannot be transferred to construe a word or a term in another statute. In taxing statutes, particularly, artificial definitions are sometimes given by the legislature in its wisdom to provide for contingencies which the legislature considers necessary to provide for. Therefore, when the legislature, in the present case, defined sugar in the Central Act, it was for the purposes of that Act and no other Act. To import that definition into the local Act is not warranted either on principles governing interpretation of statutes or on any other

judicial principle. We are of the view that the definition of the term "sugar" given in the Central Act is given for purposes of that Act. Sugar as used in the local Act in entry 9 of the Second Schedule must be understood to be sugar which is understood to be that commodity by the common man or by a shopkeeper or a trader or a customer. Even the contents of icing sugar make it clear that is not the same as ordinary sugar. Therefore, if under a local Act, tax is to be imposed on sale of sugar, it cannot be more than what is provided by section 15 of the Central Act, but as far as exemption is concerned, the position is different. The item which can be considered to be exempt is sugar simpliciter and not sugar with any additives, like icing sugar, which has an additive or starch."

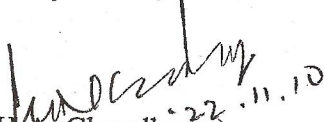
Thus as per order of Hon'ble Delhi High Court icing sugar cannot be regarded as sugar, but the rate of tax cannot exceed 4% being included in the list of declared goods under section 14 of the Central Sales Tax Act. Therefore, in view of above, rate of tax on icing sugar before and after 03.04.2010 is 4%.

  
( Sanjay Lohiya ),  
Commissioner of Taxes, Assam,  
Guwahati.

Memo No. CTS-77/2007/270-A  
Copy to:-

Dated Dispur, the 22<sup>th</sup> November, 2010.

1. The Principal Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information of the Government with reference to Government letter No. FTX.94/2007/118 dated 09.11.2010.
2. The Addl. Commissioners of Taxes/Joint Commissioners of Taxes (All) for information.
3. The Deputy Commissioners of Taxes (All) for information.
4. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information.
5. M/s. Hindustan Trading Corporation, Kamarpatty, Fancy Bazar, Guwahati for information.

  
( M.H.A. Choudhury ),  
Addl. Commissioner of Taxes, Assam,  
Dispur, Guwahati-6.

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