

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

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ORDER

Dated Dispur, the 18<sup>th</sup> December, 2010.

No. CTS-77/2007/276: Shri Swapan Kumar Handique, Chief General Manager (RE), ASEB, Bijulee Bhawan, Annex Building, Paltanbazar, Guwahati-1 filed an application under section 105 of the Assam Value Added Tax Act, 2003 seeking clarification on the following issues—

1. Whether VAT registration is compulsory or not in case of outside Assam firms who are doing projects here.
2. If a outside Assam firm, who has purchased some materials such as Transformers, PSC Poles etc. locally and paid VAT to the purchaser at the time of purchase, then what further Tax is to be deducted from them?
3. Whether one firm can be given both TIN and GRN No. with WC-2 certificate. If it is so, in which number, office will deduct VAT?
4. What procedure is to be followed in relation to issue of 'C' form to firms of inside Assam who have purchased some materials from outside Assam.

Shri Prodip Dowerah, DGM (RE), ASEB appeared alongwith other officials and placed his submission. He submitted that—

- V. In our opinion, every outside Assam firm who is doing projects here should register their firm with the local Tax authority.
- VI. The firm/contractor having GRN number along with WC-2 certificate deduction should be @4%. Those who have not attained this should be @13.5%.
- VII. The firm/contractor having TIN number in their invoice, their tax should be deducted and deposited against TIN No. and firms having GRN No. with WC-2 certificate, their Tax should be deposited against GRN No.
- VIII. 'C' form should be issued to the inside Assam firms who are supplying materials under E-1 sale and to those outside Assam firms who are supplying materials purchased from outside."

Perused the submission and provisions of the Assam Value Added Tax Act, 2003 is examined. It is clarified issue-wise as below:--

- 1) Section 47(4) prescribes that— "Notwithstanding anything contained in any other Law for the time being in force, every person mentioned in sub-section (1), sub-section (2) and sub-section (3) responsible for paying sale price in respect of any works contract or lease or sale or supply of goods shall not enter into such transaction unless the contractor, lesser or seller of supplier, as the case may be, produces an authenticated copy of the certificate of registration under this Act or furnishes an undertaking for getting himself registered and any such contractor, lesser or seller or supplier who is not so registered under this Act shall not be paid by the said

responsible person any amount in respect of the sale or supply, before he gets himself registered under this Act and submits an authenticated copy of the certificate of registration." As such VAT registration is compulsory as per provisions of said section of the Assam Value Added Tax Act, 2003 for firms who are doing projects in Assam.

2) If an outside firm has purchased some materials locally and supply the same to ASEB, the firm has to get itself registered under the Assam Value Added Tax Act, 2003. Further, the ASEB has to deduct full tax at the time of payment to the firm for supply of such items as per the specified rate under the Assam Value Added Tax Act, 2003. In case, the firm has procured materials locally after paying VAT and desires that no deduction or lower deduction of tax is to be made by ASEB at the time of payment, then the firm has to approach the Assistant Commissioner of Taxes/Superintendent of Taxes under whose jurisdiction it is registered for a certificate in this regard as per rule 28(4) of the Assam Value Added Tax Rules, 2005. If the firm produces a certificate of lower deduction or no deduction on the body of the bill by the prescribed authority, i.e., Assistant Commissioner of Taxes/Superintendent of Taxes under whose jurisdiction the firm is registered, then ASEB can deduct lower amount of tax or need not to deduct any tax as per certificate of the Assistant Commissioner of Taxes/Superintendent of Taxes.

3) As per provisions of rule 13(17) of the Assam Value Added Tax Rules, 2005— "Where any dealer is engaged in different kinds of business activities and the dealer is required to obtain Taxpayer Identification Number (TIN) for one kind of such business activity but is permitted to opt for General Registration Number (GRN) for the other activity or activities, he shall be allotted TIN as well as separate and distinct GRN for each type of business activity qualifying for separate composition scheme(s) notified under the Act. The dealer shall keep separate sets of accounts in respect of each of such activities and shall submit separate returns, statements or communications to the concerned Prescribed Authority." As such one firm can have both TIN and GRN with WC-2 but for different kinds of business activities. For example a firm shall obtain TIN for supply of goods whereas it may obtain GRN for works contract to avail Composition Scheme for works contract. In such a case, tax has to be deducted at the specified rate of such goods supplied and deposited in the Government account against the TIN of the dealer. Whereas for the works contract undertaken by said dealer, tax has to be deducted and deposited against his GRN. However, a firm cannot selectively use TIN & GRN for works contracts. It can only use GRN for works contracts, if it has obtained GRN.

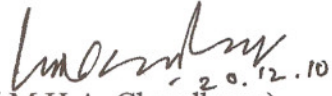
4) In case ASEB has placed order for some supply of materials for use in generation/distribution of power to a firm inside Assam and the firm has purchased such materials from outside the State of Assam and claims as the sale to be E-1 sale to ASEB, the ASEB has to first satisfy itself that it is an E-1 sale or in proper terms, sale in transit. The sale can be E-1 sale or sale in transit only if the goods which are despatched from outside the State to the local firm and the local firm, during the movement of such goods from outside the State transfers the documents of title to such goods to ASEB and such goods are received directly by ASEB. If the local firm to which ASEB has placed order takes delivery of the goods and hand over the goods to ASEB, that cannot be considered as E-1 sale. In such cases, the ASEB cannot give 'C' Form to the local firm. Only where ASEB has taken the physical delivery of the goods directly from the transporter of the goods despatched from the outside, the ASEB can issue 'C' Form for such sale in transit.

Sd/-Sanjay Lohiya,  
Commissioner of Taxes, Assam,  
Guwahati.

Memo No. CTS-77/2007/276-A  
Copy to:-

Dated Dispur, the 20<sup>th</sup> December, 2010.

1. The Principal Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information of the Government.
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. Shri Swapan Kumar Handique, Chief General Manager (RE), ASEB, Bijulee Bhawan, Annex Building, Paltanbazar, Guwahati-1 for information.



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

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