

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

ORDER

Dated Guwahati, the 4th June, 2011.

NO.CTS-7/2009/311 : M/s Kamakhya Auto Service Centre, A.K. Azad Road, Sarab Bhatti, Guwahati-8 has filed an application under section 105 of the Assam Value Added Tax Act, 2003 seeking clarification on the rate of tax on Motor A.C. spares.

Shri Umesh Ch. Tiwari, Proprietor and Shri Kamal Paul, consultant appeared and placed their submissions. They contended that car A.C. spare parts is covered by Sl. No.107 Part-A of Second Schedule of the Assam Value Added Tax Act, 2003.

They further claimed that Motor A.C. is an integral part of the motor vehicles and hence, it is a motor parts. They also cited the judgement in the case of "the State of Andhra Pradesh -Vs- T.V. Sundaram Jyengar & Sons Ltd.(1987) 65 STC 41(AP)" in support of their contention. Lastly, they averred that the West Bengal tax authorities are levying tax on the air conditioner spares at 4% as per Schedule-C Part-1 of the West Bengal VAT Act and they also furnished a copy of the said Schedule for examination.

Perused the submissions and examined the relevant facts. Now, the Sl. No. 107 Part-A of Second Schedule of the Assam Value Added Tax Act, 2003 which the petitioner relies in support of his case reads as follows, "spare parts of motor vehicles". It is judicially settled that air conditioner attached with motor vehicle does not fall under description of spare parts of vehicle. It is only an accessory fitted for providing extra comfort and nothing more. Perusal of the judgement in the case of "The State of Andhra Pradesh -Vs- T.V. Sundaram Jyengar & Sons Ltd. (1987) 65 STC 41(AP)" cited by the petitioner reveals that the ruling therein was based on interpretation of entry enumerated as "component parts of motor vehicles, articles (including batteries) adopted for use as parts and accessories of motor vehicles not being such articles as are ordinarily also used for other purposes than as parts and accessories of motor vehicles". Clearly, the phraseology adopted in this entry is altogether different from the corresponding entry in the relevant schedule of the Assam Added Tax Act, 2003. Hence, the judgement cited by the petitioner is of no help in deciding

the issue in his favour. As regard, Schedule C Part-1 of the West Bengal Act, it is revealed from examination thereof that entry No. 54C specifically described "..... spare parts, accessories and components of an air conditioner" besides another entry No.74 B saying "spare-parts of motor vehicles". Therefore, the reliance sought to be placed by the petitioner on it is also found dismissible.

Perusing the entries of the Schedules of the Assam Value Added Tax Act,2003, it is found that the item Motor A.C. spares is not covered under any entries of the First, Second, Third and Fourth Schedules of the Assam Value Added Tax Act,2003. It is therefore, clarified that the applicable rate of tax on it is 13.5% under entry at Sl. No. 1 of the Fifth Schedule of the Assam Value Added Tax Act,2003.

Sd/- A. Agnihotri.
Commissioner of Taxes, Assam,
Dispur, Guwahati-6

Memo NO.CTS-7/2009/311- A
Copy to :-

Dated Dispur, the 7th June, 2011.

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 Kamakhya Auto Service Centre, A.K Azad Road, Sarab Bhatti Guwahati-8 for information.

(R.D.Borah)

Joint Commissioner of Taxes, Assam,
Dispur, Guwahati-6.
