

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

ORDER

Dated Guwahati, the 11th August, 2011.

NO.CTS-50/2011/14 M/S Yashaswi Ispat Private Ltd., B.K.Kakoti Road, Rehabari, Sarabhatti, Guwahat-8 filed an application under Section 105 of the Assam Value Added Tax Act, 2003 seeking clarification as to whether he can claim refund of excess input tax credit arising under the following circumstances.

M/S Bongaigaon Refinery, IOCL, Dhaligaon is going to sell unserviceable plant and Machinery and other redundant equipments of 45000 MTPA DMT and 580 kg/Hr RMCR plant containing equipments; machineries, pipe and fitting, cables etc. All these have been put under a single LOT and the purchaser shall have to pay 13.5% vat on the bid price of the Lot. However, the applicant dealer will be selling mostly iron and steel scrap after dismantling and breaking down the various machineries and components of the Lot. But the applicable rate of tax on iron and steel scrap is 5% as per entry Sl.No.6 of the Third Schedule attached to the Assam Value Added Tax Act, 2003.

The application is found in order and hence admitted. Shri Dinesh Kr. Mour, FCA and Shri Sanjay Jalan, Director of the applicant firm appeared on 28-07-20011 and prayed for issuing the clarification expeditiously.

Perused the papers and documents submitted by the applicant and also examined the relevant provisions of the Assam Value Added Tax Act, 2003 and the Rules made there under. The provisions for input tax credit are incorporated in Section 14 of the Assam Value Added Tax Act, 2003. It appears from perusal of the same that input tax credit is to be allowed to the extent of the amount of tax paid by the purchasing dealer on his purchase of taxable goods made in the State from a registered dealer for the following purposes:-

- (a) Sale or re-sale by him in the State; or
- (b) Sale in the course of inter-State trade or Commerce; or
- (c) Sale in the course of export out of territory of India; or

- (d) Use as raw material or as capital goods in the manufacture and processing of taxable goods other than the goods specified in the Fourth Schedule, intended for sale of the nature referred to in clause (9),(b) and (c); or
- (e) Use as containers or materials for packing of taxable goods other than the goods specified in the Fourth Schedule, intended for Sale of the nature referred to in clauses (9),(b) and (c).

Now, it appears from facts submitted by the applicant that he will not be selling the same goods which are purchased with payment of tax.

The applicant has also not made any claim of manufacturing activity for the purpose of entitlement to input tax credit within the meaning of Section 14(3)(d) of the Assam Value Added Tax Act, 2003.

Therefore, the applicant can not avail input tax credit under the facts and circumstances presented by him.

Sd/- Dr.J.B.Ekka, IAS,
Commissioner of Taxes, Assam,
Dispur, Guwahati-6.

Memo NO. CTS-50/2011/14 - A
Copy to :-

Dated Dispur, the 12th August, 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 Yashaswi Ispat Private Ltd., B.K.Kakoti Road, Rehabari, Sarabbhatti, Guwahat-8 for information.


12/8/2011

(R.D.Borah),
Joint Commissioner of Taxes, Assam,
Dispur, Guwahati-6.
