

GOVERNMENT OF ASSAM
OFFICE OF THE COMMISSIONER OF TAXES :::: ASSAM ::::KAR BHAWAN
DISPUR, GUWAHATI.

ORDER

Dated Dispur, the 30th January, 2013.

No. CTS-42/2011/53 : M/s Marowari Hospital & Research Center, Sati Jaymati Road, Athgaon, Guwahati filed the petition under Section 105 of the Assam Value Added Tax Act read with Section 5 of the Assam Tax on Luxuries (Hotels, Lodging, Houses and Hospitals Act), 1989 seeking clarification as to whether charges of services in intensive care unit and high dependency unit are subject to levy of luxury tax under the Assam Tax on Luxuries (Hotels, Lodging, Houses and Hospitals) Act, 1989.

Shri Anil Jain, General Secretary and Shri Sanjay Surekha, Advocate appeared on behalf of the petitioner and filed their submission. They submitted that intensive care unit and high dependency unit are the places where patients are kept for essential and necessary part of treatment. Further, ICU and high dependency unit are in dormitory form where several beds are kept together where patients are kept for monitoring continuously. Such services are not luxury but essential and necessary for the treatment. Therefore, luxury tax is not applicable in such cases.


Perused the submission and provision of the Act is examined. As per provision of Section 2(7) of the Act, luxury provided in a hospital means the accommodation provided in a hospital to any person or his attendant for charges including the charges for air conditioning, television or radio or any other services provided thereto in connection with residence but does not include any charges for food, medicines, professional medical services and any medical test. Further, the rate of tax is prescribed for per day per room. From the submission of the petitioner it appears that the payment made for ICU/HDU is neither for per day per room basis nor for any luxury provided, what is provided in the ICU/HDU is medicine, professional medical services and medical test only. Therefore, charges for ICU and HDU shall not come under the purview of luxury tax.

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

Memo No. CTS-42/2011/153-A
Copy to

Dated Dispur, the 1st 8th Feb
January, 2013

- 1 The Principal Secretary to the Government of Assam, Finance 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 Commissioner of Taxes (All) for information.
4. The Assistant Commissioner of Taxes, Superintendent of Taxes(all) for information.
5. M/s Marowari Hospital & Research Center, Sati Jaymati Road, Athgaon, Guwahati for information.


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

MOS
30/1/2013