

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

ORDER

No. CTS-43/2011/203

Dated: Dispur the 5th June, 2014.

M/s. Cholayil Pvt. Ltd., Brahmaputra Jute Mills, Gopinath Nagar, Kalapahar, Guwahati-781016 has filed as application under section 105 of the Assam Value Added Tax Act, 2003 seeking clarification as to whether Ayurvedic products viz, (1) Medimix Ayurvedic Soap, (2) Medimix Ayurvedic Facewash (3) Krishna Thulasi Ayurvedic Soap & (4) Cuticura Herbal Bathing soap would fall under Entry 111 of Schedule II & liable to pay tax @5%. The application is found in order & hence admitted.

Shri Pawan Kr. Agarwal, appeared on behalf of the petitioner and filed his submission. He submitted that the applicant is a dealer as well as a manufacture of Ayurvedic Soaps, facewash etc. The aforesaid products are manufactured under drug license issued under the Drugs and Cosmetics Act, 1940. The products are manufactured with Ayurvedic ingredients that have medicinal properties to cure various skin related ailments. They further submitted that Commissioner of Taxes, Department, Andhra Pradesh held that Medimix Ayurvedic Soap falls under Entry 117 of Schedule IV of Andhra Pradesh Value Added Tax Act, 2005 and hence is taxable @5%.

Perused the submissions and the related documents are examined. As per medical terminology, "drug" is a chemical substance that is used in the treatment, cure, prevention and diagnosis of a disease on its intake. But the items in question are basically soaps and facewashes which are used as toiletries and are neither be ingested nor can be taken inside the body. As such these items cannot be treated as "drugs". Also as per Webster's dictionary "medicine" is a substance that is used in treating diseases or relieving pain and that is usually in the form of a pill or a liquid. Whereas, the products in question are soaps and facewashes having cleansing and nurturing properties similar to other cosmetics and toiletries products used commonly. As such the items in question cannot be accommodated under the definition and properties of drug and medicine.

Although the petitioner claimed the products to have therapeutic properties for curing various skin related diseases, yet they are not used specifically to cure any skin related diseases in particular.

There are a number of similar products available in the market having medicinal properties and are manufactured under Drug & Cosmetics Act, 1940: but in common parlance they are never specifically prescribed for an ailment by a registered practitioner.

The petitioner also does not have any scope for treating the aforesaid item as medicated ointment as the products in question does not resemble it physically in any respect.

Therefore the items in question cannot be treated as Drugs and Medicines.

Hence, it is clarified that the products Medimix Ayurvedic Soap, Medimix Ayurvedic Facewash, Krishna Thulasi Ayurvedic Soap & Cuticura Herbal Bathing soap are taxable @ 14.5% as per entry at Sl.No.1 of fifth schedule of the Assam Value Added Tax Act, 2003.

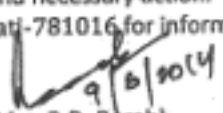
Sd/-Dr.J.B.Ekka, I.A.S.
Commissioner of Taxes, Assam,
Guwahati

Memo No. CTS- 43/2011/ 203-A

Dated :Dispur 09 /06/2014

Copy to:

1. The Additional Chief Secretary to the Government of Assam, Finance Department, Dispur for favour of kind information.
2. The Addl. Commissioners of Taxes/Joint Commissioners of Taxes (All), Head Office for information.
3. The Deputy Commissioners of Taxes, Zones (All) for information.
4. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information and necessary action.
5. M/s. Cholayil Pvt. Ltd., Brahmaputra Jute Mills, Gopinath Nagar, Kalapahar, Guwahati-781016 for information.


(Mrs. R.D. Borah),
Addl. Commissioner of Taxes, Assam,
Guwahati.