

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

No. CTMS-7/2008/164 (Circular No.23/2008)

Dated Dispur, the 21st October, 2008.

Sub : Deduction of tax by the Central Government/State Government Undertakings, Public Sector Undertakings etc. from contractors opting for payment of compounded tax under the Composition Scheme for works contract.

As per "Composition Scheme for works contract" the registered dealers of the State who executes works contract can pay at his option, an amount at the rate of 4 paise in every rupee of the total aggregate value of the works contracts received or receivable by him, in lieu of the amount of tax payable by him under the provision of the Assam Value Added Tax Act, 2003. The Composition Scheme in question was notified by the Government to facilitate calculation, payment and tax deduction at source of tax liability for a dealer deriving turnover from execution of works contract. The rate of tax on works contract has been reduced to 4% instead of otherwise leviable rate of tax at 12.5% on consideration that the payable tax shall be calculated on the aggregate receivable amount of a dealer during a period irrespective of the nature of the works contract to be executed by a dealer during the same period. The most vital aspect of the thing is that liberty has been granted to a dealer to choose whether he will opt for the composite rate for the aggregate turnover or will pay at the normal rate of 12.5% on the portion of amount relatable to transfer of property in goods. As per condition 4 laid down in the Composition Scheme, every person responsible for making any payment under clause (a) of sub-section (1) of section 47 of the Assam Value Added Tax Act, 2003 shall deduct tax at the rate of 4% from any amount paid to such dealer, who has opted for compounded tax under the said Scheme. Hence, there cannot be any question of no deduction or deduction at a lower rate in case of GRN holder works contractor. Such contractors cannot claim deduction due to labour cost, percentum or any other deduction, which is allowed to dealer having TIN. Hon'ble Gauhati High Court has also upheld the above position.

However, it has come to our notice that many Central/ State Government Undertakings, Public Sector Undertakings etc. are not deducting tax properly in the case of GRN holder works contractors, thereby causing huge revenue loss. Proper scrutiny is required in this regard for proper realization of due taxes.

It is, therefore, impressed upon all concerned to scrutinize the tax deduction, specially the cases of GRN holder and take immediate necessary steps to realize dues, if any, immediately. Such concerns may also be made aware of the provisions of the Composition Scheme.



(Sanjay Lohiya),
Commissioner of Taxes, Assam,
Guwahati.

Memo No. CTMS-7/2008/164-A
Copy to:-

Dated Dispur, the 21st October, 2008.

1. The Principal Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information.
2. The Addl. Commissioners of Taxes/Joint Commissioners of Taxes (All) for information.
3. The Deputy Commissioners of Taxes (All Zones) for information and necessary action.
4. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information and necessary action.
5. Circular file.



(Sanjay Lohiya),
Commissioner of Taxes, Assam,
Guwahati.
