

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

(Circular No. 2/2010)

No. CTS-81/2007/289

Dated Guwahati, the 12th Feb/2010.

Sub: Use of 'C' forms for import of equipments/machineries for execution of works contracts.


It has been represented by some contractors that they are required to make inter-State purchase of construction equipments/machineries for use in execution of works contract. It is submitted on behalf of the contractors that such equipments/machineries like cranes, tippers, dumpers, roller, excavator, grader are required for executing works contract expediently and without the use of such equipments/machineries, the execution of works contract is practically/almost impossible. Some of such equipments/machineries like hot mix plant, Ready-mix concrete (RMC) plant, Bitumen Pressure Distributor, Bitumen Sprayer also facilitate processing of goods which are used in execution of works contract involving transfer of property in such goods and some equipments are used for transporting materials also. They have contended that these items are eligible for being included in the Certificate of Registration under the Central Sales Tax Act, 1956 and therefore, such equipments/machineries can be purchased at concessional rate of taxes on the strength of Declaration Form "C" under the Central Sales Tax Act, 1956.

Section 8(3)(b) of the CST Act, 1956 allows use of 'C' form for use by a dealer in processing of goods for sale, inter-alia. Rule 13 of CST (R&T) Rules, 1957 states that "the goods referred in clause (b) of sub-section (3) of section 8 which a registered dealer may purchase, shall be goods intended for use by him as raw materials, processing materials, machinery, plant, equipment, tools stores, spare parts, accessories, fuel or lubricants, in the manufacture or processing of goods for sale, or in mining, or in the generation or distribution of electricity or any other form of power.

In *Larson & Toubro Limited v. Commissioner of Commercial Tax, Bihar, Patna and Another* [1995] 097 STC 0102 [Pat], the question which arose for consideration was whether the petitioner contractor, who had to use cranes, tippers etc. for executing the works contract, is entitled to get these items included in the certificate of registration. The Full Bench of the Patna High Court, after referring to the judgments of the Apex Court rendered in *J.K. Cotton Spinning & Weaving Mills Ltd.'s case* and *Indian Copper Corporation Ltd.'s case* and of High Courts, held that for execution of the works contract, the goods in question are commercially expedient and cannot be avoided, having regard to the magnitude of the works undertaken by the petitioner and therefore the petitioner is entitled to inclusion of those items in the Certificate of Registration.

In the light of the above position of law, it is felt that equipments/machineries which are directly required for execution of works contract are eligible for inclusion in the Certificate of Registration and hence "C" forms can be issued in respect of purchases made in the course of inter-State trade or commerce. However, entry tax be realized without fail on items exigible to entry under the Assam entry Tax Act, 2008.

This circular supersedes earlier Circulars No. CTS-35/2002/246 dated 20th August, 2007 and No. CTS-40/2003/28 dated 8th February, 2006.


(Sanjay Lohiya),
Commissioner of Taxes, Assam,
Dispur, Guwahati-6.

Memo No. . CTS-81/2007/289-A

Dated Dispur, the 16th February, 2010

Copy to :-

1. The Addl. Commissioner of Taxes/Joint Commissioners of Taxes (All), Head Office for information.
2. The Deputy Commissioners of Taxes (All) for information and necessary action.
3. The Assistant Commissioners of Taxes/Superintendents of Taxes (All) for information and necessary action.
4. Circular file.


Commissioner of Taxes, Assam,
Guwahati-6.