

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

( Circular No. 21/2008 )

No. CTS-35/2008/48

Dated Dispur, the 30<sup>th</sup> September/2008.

Sub : Disposal of appeal cases by Deputy Commissioner of Taxes (Appeals) in the light of AVAT(Amendment) Act/2008.

The AVAT (Amendment) Act/2008 has come into force w.e.f. 8.4.2008. Vide this amendment, substantial change in procedure of disposal of appeals by Deputy Commissioner of Taxes (Appeals) has been made. However, it appears that some Deputy Commissioner of Taxes (Appeals) are not following the revised procedure.

As per Assam Value Added Tax (Amendment) Act,2008 published vide Notification No. LGL6/2003/pt/132, the clause (b) of sub-section (11) of Section 79 of the Assam Value Added Tax Act,2003 has been substituted w.e.f. 08-04-2008 which reads as below:


“consider and decide any matter arising out of the proceedings in which the order appealed against was passed, irrespective of the fact that such matter has not been raised before it by the appellant or that no order has been made in the said proceedings regarding such matter for any reason whatsoever.”

Further, clause (C) has been deleted.

Therefore, after coming into force the revised provision of Section 79 of the AVAT Act/2003, the Deputy Commissioner of Taxes (Appeal) now cannot remand back the appeal cases to the level of ACT/S.T. for fresh adjudication or decision but he shall have to either confirm, reduce, enhance or annul the decision or order appealed against. The Deputy Commissioner of Taxes (A) shall have to pass a final order by deciding the quantum of tax payable by the appellant.

It is also to bring into notice of all concerned that while deciding an appeal against assessment orders passed after 1.5.05 under the AGST Act/2003 shall be as per the revised provision as stated above.

All Deputy Commissioner of Taxes (Appeals) are requested to follow the above mentioned amended provision of the Assam Value Added Tax Act, 2008 in letter and spirit.


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

Memo No. CTS-35/2008/48-A

Dated Dispur, the 20 September/2008.

Copy to :-

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

  
Commissioner of Taxes, Assam,  
Guwahati-6.