

ASSAM ACT No. XV OF 1962

THE ASSAM AGRICULTURAL INCOME-TAX (AMENDMENT)
ACT, 1962

(As passed by the Assembly)

Received the assent of the Governor on the 17th July, 1962

[Published in the *Assam Gazette*, Extraordinary, dated the 18th July 1962]An
Act

further to amend the Assam Agricultural Income-tax Act, 1939

Preamble. Whereas it is expedient further to amend the Assam Act referred to as the principal Act, in the manner hereinafter appearing:

It is hereby enacted in the Thirteenth Year of the Republic of India as follows:—

Short title, extent and commencement. 1. (1) This Act may be called the Assam Agricultural Income-tax (Amendment) Act, 1962.

(2) It shall have the like extent as the principal Act.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Amendment of section 2 of Assam Act IX of 1939. 2. In section 2 of the principal Act, for clause (g) the following shall be substituted, namely:—
“(g) ‘Board’ means the Assam Board of Revenue constituted under section 3 of the Assam Board of Revenue Act, 1959 or under any statutory modification or re-enactment thereof”.

Amendment of section 18 of Assam Act IX of 1939. 3. In sub-section (1) of section 18 of the principal Act, sub-clause (a) shall be deleted.

Substitution of section 26 of Assam Act IX of 1939. 4. For section 26 of the principal Act, the following shall be substituted, namely:—

“Appeal to the Board of Revenue.” 26. (1) Any assessee objecting to an order passed in appeal under section 24 or passed in revision under sub-section (1) of section 27 may appeal to the Board within sixty days of the date on which such order is communicated to him.

(2) The Board may admit an appeal after the expiration of the sixty days referred to in sub-section (1) if it is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within time.

(3) An appeal to the Board shall be in the prescribed form and shall be verified in the prescribed manner, and shall, be accompanied by a fee of twenty-five rupees.

(4) The Board may, after giving the assessee an opportunity of being heard, pass such orders thereon as it thinks fit, and shall communicate any such orders to the assessee and to the Commissioner."

Substitution
of section 27
of Assam
Act IX of
1939.

5. For section 27 of the principal Act, the following shall be substituted, namely:—

"Revision
by Commis-
sioner.

27. (1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any authority other than him appointed under sub-section (2) of section 18, is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such orders thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

(2) In the case of any order other than an order to which sub-section (1) applies passed by any authority other than the Commissioner, he may, either of his own motion or on a petition by the assessee for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such enquiry or cause such enquiry to be made, and subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit.

(3) In the case of a petition for revision under sub-section (2) by an assessee, the petition must be made within ninety days from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier:

Provided that the Commissioner before whom the petition is filed may admit it after the expiration of the period of ninety days if he is satisfied that for reasons beyond the control of the petitioner or for any other sufficient cause, it could not be filed within time.

(4) The Commissioner shall not revise any order under this section in the following cases:—

- (a) where an appeal against the order lies under section 24 or 26 but has not been made and the time within which such appeal may be made has not expired, or in the case of an appeal to the Board, the assessee has not waived his right of appeal; or
- (b) where the order is pending on appeal under section 24; or
- (c) where the order has been made the subject of an appeal to the Board.

Explanation.—An order by the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to an assessee."

Substitution of section 28 of Assam Act IX of 1939. 6. For section 28 of the principal Act, the following shall be substituted, namely:—

"Reference. 28. (1) Within sixty days from the date of service of any order under section 26, the assessee may, by petition in writing require the Board to refer to the High Court any question of law arising out of such order of the Board or the Board may make such reference out of its own motion. Where the petition is made by an assessee, it shall be accompanied by a fee of one hundred rupees.

(2) Within sixty days of the receipt of the petition under sub-section (1), the Board shall, subject to the provisions in sub-section (3), draw up, after such hearing and enquiry as may be considered necessary, a statement of the case and refer it with its opinion thereon to the High Court.

(3) The Board may reject the application under sub-section (1) and refuse to state the case on the ground that it is time-barred or otherwise incompetent, or that no question of law arises and the applicant may, within thirty days of such refusal withdraw the application and if he does so, the fee paid shall be refunded.

(4) Where the application under sub-section (1) is rejected on the ground that no question of law arises and where no action is taken by the applicant under sub-section (3), he may, within ninety days

from the date of such rejection, apply to the High Court against the order rejecting the application, and if, upon receipt of such an application, the High Court is not satisfied with the correctness of the decision, it may require the Board to state the case and refer it and, on receipt of any such requisition, the Board shall state and refer the case accordingly.

(5) Where the application under sub-section (1) is rejected on the ground that it is time-barred and where no action is taken by the applicant under sub-section (3), he may, within ninety days of the date of such rejection, apply to the High Court against the order rejecting the application and if, upon receipt of such an application, the High Court is not satisfied with the correctness of the decision, it may require the Board to treat the application under sub-section (1) as made within time.

(6) Where the High Court is not satisfied that the statement in a case referred under this section is sufficient to enable it to determine the questions of law raised thereby, it may refer the case back to the Board to make such additions thereto or such alterations therein as may be directed and the Board shall thereupon comply with the directions and re-submit the case accordingly.

(7) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Board a copy of such judgment under the seal of the Court and signature of the Registrar, and the Board shall, on receipt of the copy of the judgment, order disposal of the case accordingly.

(8) Where a reference is made on the application of an assessee, the costs shall be in the discretion of the High Court.

(9) Notwithstanding that a reference has been made under this section to the High Court, payment of tax shall not be stayed pending disposal of such reference; but where the amount of tax is reduced as the result of the reference, the excess shall be refunded in accordance with the provisions of this Act.

(10) Section 5 of the Indian Limitation Act, 1908 shall apply to an application to the High Court by an assessee under this section." Act IX of 1903.

Amendment of section 34A of Assam Act IX of 1939. 7. In section 34A of the principal Act, in clause (a) of section (3), for the words "the Indian Penal Code, 1860," the words "the Indian Penal Code, 1860, or the Prevention of Corruption Act, 1947" shall be substituted, Act XLV of 1860. Act II of 1947