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ASSAM ACT NO. XXIV OF 2005
(Received the assent of the Governor on 7.9.05)

পঞ্জীভুক্ত নম্বৰ - ৭৬৮/৯৭

Registered No. 768/97

অসম  বাজপত্র

सत्यमेव जयते

THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY AUTHORITY

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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT::: LEGISLATIVE BRANCH

NOTIFICATION

The 9th September, 2005.

No.LGL.71/2005/23 : -The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XXXIV OF 2005
(Received the assent of the Governor on 7.9.05)

THE ASSAM ENTRY TAX (SECOND AMENDMENT) ACT, 2005

**AN
ACT**

further to amend the Assam Entry Tax Act, 2001.

Preamble

Whereas it is expedient further to amend the Assam Entry Tax Act 2001, hereinafter referred to as the principal Act, in the manner hereinafter appearing; **Assam Act IV of 2001.**

It is hereby enacted in the Fifty-sixth Year of Republic of India, as follows:-

Short title, extent and commencement.

1. (1) This Act may be called the Assam Entry Tax (Second Amendment) Act, 2005.
- (2) It shall have the like extent as the principal Act.
- (3) It shall be deemed to have come into force on and from the 12th day of May, 2005.

Amendment of section 2.

2. In the principal Act, in section 2, in clause (d), after the word "contract" appearing at the end, the following shall be inserted, namely:-

"and in the case of crude oil specified in entry 38 of the Schedule which are transported through pipelines or otherwise into a local area from any place outside that local area including a place outside the State for consumption, use or sale therein, the ultimate recipient or the refinery, as the case may be, of such crude oil shall be deemed to be the importer."

Amendment of section 3.

3. In the principal Act, in section 3,--
 - (i) for the existing sub-section (1), the following sub-section shall be substituted, namely :-

"(1) There shall be levied and collected an entry tax on the entry of goods specified in the Schedule into any local area for consumption, use or sale therein at such rate, not exceeding twenty per centum, as the State Government may, by notification, fix in this behalf and different rates may be fixed for different class or classes of specified goods and such tax shall be paid by every importer of such goods, whether he imports such goods on his own account or on account of his principal or any other person or takes delivery or is entitled to take delivery of such goods on such entry.";

(ii) in sub-section (2), for the words, "as shown in the said Schedule", the words, "as may be fixed by the State Government by notification in the Official Gazette" shall be substituted;

(iii) in sub-section (4) shall be omitted.

Insertion of section 3A.

4. In the principal Act, after section 3, the following new section 3A shall be inserted, namely :-

"Composition of tax liability 3A. Notwithstanding anything contained in this Act, the State Government may, by notification published in the Official Gazette and subject to such conditions and restrictions, if any, as may be specified therein, permit any class of importer to pay in lieu of the tax payable under this Act, for any period, an amount linked with the volume or quantity of specified goods or some such other thing to be determined by the State Government by way of composition and to be paid at such intervals and in such manner, as may be specified in such notification."

Insertion of section 8A and 8B.

5. In the principal Act, after section 8, the following new sections 8A and 8B shall be inserted, namely :-

"Utilisation of the proceeds of the tax 8A. Subject to such condition as may be prescribed such sum of the proceeds of the tax as may be determined by the State Government shall be spent by the State Government for the purpose of development of trading facilities, maintenance of roads and other infra-structures in the local area."

"Presumption that the incidence of the tax has been passed on to the buyer. 8B. (1) Every importer who has paid the entry tax on any specified goods under this Act, shall, unless the contrary is proved by him, deemed to have passed on the full incidence of such tax to the buyer of such goods.

(2) If any claim arises for refund of any tax paid by an importer, he may make an application for refund of such tax to the Prescribed Authority before the expiry of ninety days from the date on which such claim arises in such form and in such manner as may be prescribed and the application shall be accompanied by such documentary evidence as may be required to establish that--

- (a) there was no liability to pay tax under the Act;
- (b) the amount of tax in relation to which the refund is claimed was collected from or paid by him ; and
- (c) the incidence of such tax had not been passed to any other person.

- (3) If, on receipt of any such application, the Prescribed Authority is satisfied that such dealer had not passed on the incidence of tax to any other person and the whole or any part of the amount of tax paid by the applicant is refundable, he may make an order accordingly."

Amendment of section 9

6. In the principal Act, in section 9, for the existing sub-section (2), the following shall be substituted, namely :-

"(2) All rules made and notifications issued by the State Government under this Act shall be laid, as soon as may be, after it is published, before the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions in which it is so laid or the sessions immediately following, and if the State Legislature agrees in making any modifications in the rule or notification or that the rule or notification should not be made, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification."

Substitution of Schedule

7. In the principal Act, for the existing Schedule, the following Schedule shall be substituted, namely: -

"SCHEDULE

[See clause (i) and (k) of section 2]

1. Cement
2. Refrigerators, air coolers, air-conditioning plant, geysers, washing machines, Xerox and Fax machines and Component and parts thereof.
3. Sound transmitting equipment including Telephones, mobile phones, pagers and component and parts thereof.
4. Television sets both coloured and black and white, videocassette recorders, videocassette players, videocassette tapes, wireless reception instrument and apparatus and radios and parts thereof.
5. Type writers including electronic typewriters, Photocopiers, duplicating machines and component and parts thereof.
6. Motor vehicle:
 - (i) Motor cars, motor omni buses, motor vans, motor trucks, chassis of such motor vehicles.
 - (ii) Tractors, bulldozers, excavators, earthmovers and power tillers.
7. Marble, granite and other decorative slabs and articles made therefrom.
8. Computer of all varieties, computer software and hardwares, servers, V -sat and accessories including UPS used with computers.
9. Plants and machineries for industry and construction works (except agricultural machinery).

10. Pump sets of any type.
11. (i) Furnace oil (FO) and Bitumen
(ii) Light Diesel Oil (LDO)
12. Hospital Equipment.
13. Chemical fertilizers, bone meals, pesticides, insecticides, fungicides, herbicides, rodenticides and weedicides.
14. Diesel generators.
15. HDPE bag and HDPE coated Jute bag /sack and Hessian Jute bag whether Polythen lined or not.
16. Pulses and cereals in all forms.
17. Fish excluding dry fish.
18. Flowers (natural).
19. Ultra High Temperature (UHT) milk.
20. Eggs.
21. Processed fruit juices
22. Items of bell metal and brass
23. Biscuits
24. Gamochoa
25. (a) All varieties of textiles viz., cotton, woolen or silken, including rayon, art silk and nylon textiles, whether manufactured by handloom, powerloom or otherwise.
(b) Mekhela Chadar.
26. Sugar.
27. Bamboo
28. Films of all kinds including X-ray films
29. Live stocks i.e., pig, goat, sheep, poultry
30. Photographic paper
31. Elevators and parts and accessories thereof
32. Aluminium conductor of any kind
33. Intra ocular lens
34. Aluminium plain sheet
35. PVC pipes, tubes and fittings
36. Acrylic yarn in hank form
37. Fabric coated/impregnated with PVC and cellular derivations
38. Crude oil.
39. M.S. Pipes.
40. Tea.
41. Extra neutral alcohol (ENA).
42. Gur, rub gur and jeggary
43. Molasses.
44. Paper corrugated box and paper cartons of all kinds
45. Flexible Laminated Sheet and flexible laminated pouch
46. Wheat product except when imported and sold by Food Corporation of India to Deputy Commissioners and Sub-Divisional Officers of Assam for distribution in any relief operation or for use in connection with any Scheme sponsored by the Government of India or the State Government.
47. (a) Tobacco including cigarette, cheroots, cigar, biri, zarda, khoini, sada and smoking mixture.
(b) Tobacco mixed pan masala including gutka whether sold under a brand name or not.

48. Tendu Leaves.
49. Rectified spirit.
50. Plain and corrugated iron sheet whether hot or cold rolled
51. Chemicals.
52. Dispenser
53. Coal
54. Declared goods under the Central Sales Tax Act, 1956 (Central Act 74 of 1956) which are not mentioned in any of the above entries
55. Other goods not covered by any of the entries above but included in the Schedules of taxable goods attached to the Assam Value Added Tax Act, 2003 (Assam Act VIII of 2005)
56. Lime stone and Lime powder.
57. Bauxite
58. Vegetable Oils, vanaspati or vegetable ghee and other edible oils including mustard oil and rapeseed oil except when such goods are imported by STATEFED or its units in Assam."

Repealed and
savings.

8. (1) The Assam Entry Tax (Amendment) Ordinance, 2005 is hereby repealed.
- (2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act, as if this Act had come into force on the date the said Ordinance came into force.

Assam
Ordinance III
of 2005.

M. K. DEKA

COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM,
LEGISLATIVE DEPARTMENT.
DISPUR