

ASSAM ACT XIII OF 1952

THE ASSAM PROFESSIONS, TRADES, CALLINGS
AND EMPLOYMENTS TAXATION (AMEND-
MENT) ACT, 1952

(Received the assent of the Governor on the 8th October 1952)

(Passed by the Assembly)

(Published in the *Assam Gazette*, dated 15th October 1952)

An

Act further to amend the Assam Professions, Trades, Callings and
Employments Taxation Act, 1947

Preamble.

WHEREAS it is expedient further to amend the Assam Professions, Trades, Callings and Employments Taxation Act, 1947, hereinafter referred to as the "principal Act," in the manner hereinafter appearing:—

It is hereby enacted as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Professions, Trades, Callings and Employments Taxation (Amendment) Act, 1952.

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

(3) It shall come into force at once.

Insertion of
new clause
to section 2
of Assam
Act VI of
1947.

2. (1) In section 2 of the principal Act, the following shall be inserted as clause (a) and the existing clause (a) shall be renumbered as clause (aa):—

"(a) 'assessing authority' in a particular area means the Superintendent referred to in section 6 exercising jurisdiction in that area,";

Amendment
of clause (d)
(i) of sec-
tion 2 of
Assam Act
VI of 1947.
Amendment
of section 6
of Assam Act
VI of 1947.

(2) for item (i) of clause (d) the following shall be substituted, namely:—

"(i) A Government, the head of an office or the disbursing officer."

3. For section 6 of the principal Act, the following shall be substituted, namely:—

Taxing au-
thorities.

"6. The Commissioner, Assistant Commissioner, Superintendents, Inspectors and Sub-Inspectors or any other officer appointed under the Assam Sales Tax Act, 1947, shall be the Commissioner, Assistant Commissioner, Superintendents, Inspectors and Sub-Inspectors or such other officer respectively for carrying out the purposes of this Act, and their powers and duties and relation with one another shall be such as may be prescribed".

Insertion of
new proviso
to section 8
(4) of Assam
Act VI of
1947

4. To sub-section (4) of section 8 of the principal Act, the following proviso shall be added, namely:—

"Provided that before making assessments, the assessing authority may allow the person such further time as he thinks fit to make the return or to comply with the terms of the notice issued under sub-section (2)".

[Price 1 anna or 1d.]

Insertion of new sections after section 8 of Assam Act VI of 1947.

5. After section 8 of the principal Act, the following new sections shall be inserted, namely:—

“8A. If for any reason any person has not been assessed or has been under-assessed for any financial year the assessing authority may, notwithstanding anything contained in sub-section (2) of section 7, at any time within three years of the end of that year, serve on the person liable to pay the tax, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 7 and may proceed to assess or re-assess him and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section:

Assessment of Escaped Tax.

Provided that the tax shall be charged at the rate at which he would have been charged if the person would not have escaped assessment or full assessment, as the case may be.

Rectification of mistakes.

8B. (1) The authority which made an assessment or passed an order on appeal or revision in respect thereof, may, of his own motion, and shall if an application is filed in this behalf, within three years from the date of such assessment or order rectify any mistake apparent from the record of the case :

Provided that no such rectification having adverse effect upon an assessee shall be made unless the assessee has been given a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the assessing authority shall order any refund which may be due to such person.

(3) Where any such rectification has the effect of enhancing the assessment or reducing the refund, the assessing authority shall serve on the person a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 11 and the provisions of this Act shall apply accordingly.”

Amendment of section 9 of Assam Act VI of 1947.

6. In section 9 of the principal Act—(1) in sub-section (3) for the words “a return furnished under sub-section (2)”, the words “no return under sub-section (2) has been furnished or a return furnished under that sub-section” shall be substituted.

(2) After sub-section (3) of section 9 of the principal Act, the following new sub-section shall be inserted, namely:—

“(4) Where any Principal Officer fails to deduct any tax or after deducting fails to pay it as required by or under this Act, he shall, without prejudice to any other consequences he may incur under this Act, be deemed to be a person in default in respect of the tax not deducted or paid and all the provisions of section 13 shall apply to him:

Provided that the assessing authority shall not make a direction under sub-section (2) of section 13 for the recovery of any penalty from such person unless it is satisfied that such person has wilfully failed to deduct and pay the tax.”

Insertion
of new sec-
tions after
section 9 of
Assam Act
VI of 1947.

7. After section 9 of the principal Act, the following new sections shall be inserted, namely:—

“Requisition
for deduc-
tion of tax.

9A. The assessing authority may require a principal officer to deduct, from any payment to a person, any tax or penalty due from him and the principal officer shall comply with such requisition.

Indemnity.

9B. The principal officer deducting or paying any tax under the provisions of this Act is hereby indemnified for such deduction or payment thereof”.

Amendment
of section 10
of Assam
Act VI of
1947.

8. For section 10 of the principal Act, the following shall be substituted, namely:—

Appeal.

“10. Any person aggrieved by an order passed by an assessing authority under this Act may in the prescribed manner appeal, within thirty days of receipt of such order, to the Assistant Commissioner:

Provided that the Assistant Commissioner may admit it after the expiration of thirty days, if he is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within time:

Provided further that no appeal shall lie against an order of assessment under sub-section (4) of section 8”.

Insertion
of new sec-
tion after
section 10 of
Assam Act
VI of 1947.

9. The following new section shall be inserted after section 10 of the principal Act, namely:—

“Power of
revision.

10A. Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner may, on an application by a person aggrieved by any order, filed within ninety days of that order, or of his own motion, revise any order passed under this Act by any officer subordinate to him:

Provided that no order prejudicial to a person shall be passed without giving him a reasonable opportunity of being heard”.

Amendment
of section 13
of Assam
Act VI of
1947.

10. For section 13 of the principal Act, the following shall be substituted, namely:—

Mode of
recovery.

“13. (1) Where any tax or other dues payable under this Act is not paid on or before the due date the person shall be deemed to be in default:

Provided that where a person has presented an appeal or petition for revision and such appeal or petition for revision has been admitted, he shall not be deemed, for so

long as the appeal or petition for revision remains pending, to be in default in respect of the portion of the dues in dispute.

(2) Where a person is in default, the assessing authority may, in his discretion direct that, in addition to the amount due a sum not exceeding that amount shall be recovered from the defaulter by way of penalty.

(3) Where a person is in default, the assessing authority shall, unless action has been taken under section 9A, order that the amount due shall be recoverable as an arrear of land revenue and shall proceed to realise the amount due as such."

Amendment of section 14 of Assam Act VI of 1947. 11. For section 14 of the principal Act, the following shall be substituted, namely:—

Refunds. "14. Any person who has paid any tax or penalty in excess of the amount due under this Act may, within ninety days of the service of the order of assessment or that passed on appeal or revision as the case may be, apply for a refund and the amount paid in excess shall be refunded accordingly."

Insertion of new sections after section 17 of Assam Act VI of 1947. 12. After section 17 of the principal Act, the following new sections shall be inserted, namely:—

"Prosecution, suits or other proceedings. 17A. No suit shall be brought in any civil court to set aside or modify any assessment made or order passed under the provisions of this Act, and no prosecution, suit or other proceedings shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act or the rules made thereunder.

17B. In computing the period of limitation prescribed for an appeal or a revision, the day on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded."