

ASSAM ACT XIX OF 1971

THE ASSAM PURCHASE TAX (AMENDMENT) ACT
1971

(As passed by the Assembly)

(Received the assent of the Governor on the 23th June 1971)

(Published in the *Assam Gazette*, Extraordinary, dated the 2nd July 1971)An
Actfurther to amend the *Assam Purchase Tax Act, 1967*

Preamble. Whereas it is expedient further to amend the Assam Purchase Tax Act, 1967, hereinafter called the principal Act, in the manner hereinafter appearing ;

Assam Act
XIX of
1967.

It is hereby enacted in the Twenty-second Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Purchase Tax (Amendment) Act, 1971.

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

(3) Sections 1, 2, 3, 7, 8 and 11 of this Act shall be deemed to have come into force with effect from 29th May, 1968 and the remaining provisions of this Act shall come into force on such date as the State Government may, by notification in the official Gazette appoint.

Amendment
of preamble
to Assam
Act XIX
of 1967.
Amendment
of section 2
of Assam
Act XIX
of 1967.

2. In the long title and preamble to the principal Act for the words "raw jute and raw hides and skins" the words "certain commodities" shall be substituted.

3. In section 2 of the principal Act, (1) for clause (3), the following shall be substituted, namely:—

(3) "Dealer" means any person who for commission, remuneration or otherwise carries on the business of buying taxable goods in the State.

Explanation (1).—The Central Government or the State Government or any local authority which, whether or not in the course of business, buys taxable goods in the State shall be deemed to be a dealer for the purposes of this Act.

Explanation (2).—A society, club or an association which, whether or not in the course of business, buys taxable goods in the State from its members shall be deemed to be a dealer for the purposes of this Act.

Explanation (3).—The manager or agent of a dealer who resides outside the State and buys taxable goods in the State shall in respect of goods so bought be deemed to be a dealer for the purposes of this Act”.

(2) after clause (3) as so substituted, the following shall be inserted as clause (3A), namely:—

“(3A) ‘Declared goods’ means goods declared under section 14 of the Central Sales Tax Act, 1956 to be of special importance in inter-State trade or commerce”;

Central
Act 74 of
1956.

(3) for clause (8), the following shall be substituted, namely:—

“(8) ‘person’ means any individual, or association or body of individuals, and includes a local authority, a department of any Government, a Hindu undivided or joint family, a firm and company whether incorporated or not”;

(4) After clause (8), as so substituted, the following shall be inserted as clause (8A), namely:—

(8A) “purchase price” means price in terms of money or money value of valuable consideration paid or payable by a dealer for any purchase of taxable goods including any sum charged for.

(i) anything done by the seller with or in respect of the goods at the time of or before delivery thereof, and

(ii) containers or other materials for the packing of such goods ;

(5) after clause (14), the following shall be inserted as clause (14A), namely:—

“(14A) ‘Schedule’ means the Schedule to this Act” ;

(6) for clause (15), the following shall be substituted, namely:—

“(15) ‘Taxable goods’ means goods specified in the Schedule”;

(7) after clause (15) as so substituted, the following shall be inserted as clause (15A), namely:—

“(15) ‘Turnover’ means the aggregate of the amounts of purchase price paid or payable by a dealer in respect of any purchase of taxable goods made by him during any return period after deducting the amount of purchase price, if any, refunded to the dealer by the seller in respect of any taxable goods and their containers purchased from the seller and returned to him within a period of three months from the date of delivery of the goods.”

(8) Clauses (5), (6), (9) and (12) shall be deleted.

Amendment of Section 3 of Assam Act XIX of 1967.

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

“3. (1) Subject to the provisions of this Act, every dealer shall be liable to pay tax on his turnover at such rates as may be specified in the Annual Assam Finance Acts:

Provided that the liability for payment of tax in respect of items 3 and 4 of the Schedule shall commence from such date as the State Government may, by notification in the official Gazette, appoint; and the rate of tax on these two items till 31st March, 1972, shall be as follows:—

in respect of:—

(a) item No. 3 of the Three paise in the Schedule. rupee.

(b) item No. 4 of the Two paise in the Schedule. rupee.

Provided further that the State Government may grant a rebate not exceeding one per centum of the tax subject to such conditions as may be prescribed:

Provided further that when the tax has been levied under this Act in respect of the sale or purchase inside the State of any Declared Goods and such goods are sold in the course of inter-State Trade or Commerce, the tax so levied shall be refunded to such person in such manner and subject to such conditions as may be prescribed.

(2) The tax under sub-section (1) shall be levied at the point of last purchase of the taxable goods in the State by a dealer :

Provided that where any dealer claims that any purchase of taxable goods by him was not the last purchase of the said goods in the State by a dealer, the burden of proof of the same shall be on the dealer."

Insertion of Proviso to Section 6 of the Assam Act XIX of 1967. 5. After section 6(1) of the principal Act, the following shall be inserted, namely:—

"Provided that the Commissioner may, for good and sufficient reasons, demand from a dealer who has been registered or a firm show has applied for registration under section 5(2) or a person who has been required to get himself registered under section 5(4), reasonable security not exceeding twenty-five per cent of the amount as, in the opinion of the Commissioner, shall be due for proper payment of the tax":

Provided further that such dealer, firm or person shall be given an opportunity to present his or their case to the Commissioner before any amount is realised as security.

Amendment of Section 7 of Assam Act XIX of 1967. 6. In section 7 of the principal Act (1) for sub-section (1), the following shall be substituted, namely:—

"(1) Every registered dealer shall furnish such returns of taxable goods purchased by him in such form, for such period, by such date and to such authority as may be prescribed".

(2) in sub-section (2), for the words "in that year", the following shall be substituted, namely:—

"at any time within eight years of the expiry of the return period".

(3) after sub-section (2) as so amended, the following shall be inserted as a proviso, namely:—

"Provided that in computing the period of eight years specified in this sub-section, the period during which the Commissioner is restrained by an order of the Board or any Court from serving the notice under this sub-section shall be excluded".

Amendment of Section 10 of Assam Act XIX of 1967. 7. In section 10 of the principal Act, for sub-section (1), the following shall be substituted, namely:—

"(1) If in consequence of information coming into his possession the Commissioner is satisfied that any taxable goods chargeable to tax escaped assessment in any return period or have been under assessed, he may, at

any time within eight years of the expiry of the return period, serve on the dealer liable to pay tax in respect of such goods a notice, requiring him to furnish within such periods as may be mentioned in the notice, a return of taxable goods purchased and may proceed to assess or reassess the dealer and the provisions of this Act shall, so far as may be, apply accordingly :

Provided that the tax shall be charged at the rate at which it would ordinarily have been charged, had there been no escape or under assessment :

Provided further that in computing the period of eight years specified in this sub-section, the period during which the Commissioner is restrained by an order of the Board or any Court from serving the notice under this sub-section shall be excluded”.

Amendment of Section 24 of Assam Act XIX of 1967.

8. The existing section 24 of the principal Act, shall be re-numbered as sub-section (1) of the said section and after sub-section (1) as so renumbered the following shall be inserted as sub-sections (2) and (3), namely :—

“(2) If a refund, not being a refund under the second proviso to sub-section (1) of section 3, is not made within ninety days of such refund being due, the State Government shall pay to such dealer simple interest at the rate of six per centum per annum on the amount refundable”.

(3) Refund under this Act shall be deemed to be due—

- (a) in cases where the tax assessed has been reduced on appeal or revision, from the date of the order of the appellate or revisional authority comes to the knowledge of the assessing authority ; and
- (b) in other cases, on the date and application for refund is made by the party claiming the refund”.

Amendment of section 40 of Assam Act XIX of 1967.

9. In section 40 of the principal Act, for sub-section (1), the following shall be substituted, namely :—

“(2) Any dealer aggrieved by an order passed under this Act by any person appointed under section 4 to assist the Commissioner, but not being an order passed under this section may, within thirty days from the date of service of such order, appeal to a prescribed authority, against such order :

Provided that no appeal against an order of assessment or penalty shall be entertained by the said authority unless he is satisfied that the amount of tax assessed or penalty levied, if not otherwise directed by him has been paid :

Provided further that the authority before whom the appeal is filed may admit it after the expiration of thirty days, if such authority is satisfied that for

reasons beyond the control of the appellant or for any other, sufficient cause, it could not be filed within time”.

Amendment of section 41 of Assam Act XIX of 1967. 10. In section 41 of the principal Act, (1) for sub-section (2), the following shall be substituted, namely:—

“(2) In the case of any order not being an order to which sub-section (1) applies, passed by any person appointed under section 4 to assist him, the Commissioner may of his own motion, and in the case of an order passed under section 40 also on petition by a dealer 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 dealer, as he thinks fit:

Provided that the Commissioner may dispense with the enquiry required to be made under this sub-section if he, for reasons to be recorded, considers such enquiry to be unnecessary”.

(2) for sub-section (4), the following shall be substituted, namely:—

“(4) The Commissioner shall not revise an order under this section 42, or—

(a) where the order is pending on appeal under section 42; or

(b) where an appeal against the order lies under section 42 and the dealer has not waived his right of such appeal, on petition by a dealer under sub-section (2)”.

Insertion of Schedule in Assam Act XIX of 1967. 11. After section 44 of the principal Act, the following shall be inserted as a SCHEDULE, namely—

SCHEDULE

[vide section 2 (14A)]

(1) No.	(2) Description of goods
1	Raw Jute
2	Raw hides and skins
3	Bones of animals, birds, reptiles and fishes.
4	Paddy.