

ASSAM ACT IV OF 1948.

THE ASSAM REVENUE TRIBUNAL (TRANSFER
OF POWERS) ACT, 1948.

(Passed by the Assembly)

[Received the assent of the Governor on the 6th April, 1948.]

[Published in the Assam Gazette, Extraordinary of 8th April, 1948.]

An

Act to provide for the transfer of the powers and jurisdiction of the Assam Revenue Tribunal.

Preamble.

WHEREAS it is expedient to transfer the powers and jurisdiction exercised by the Assam Revenue Tribunal to the Assam High Court and to an authority appointed by general or special order of the Provincial Government.

It is hereby enacted as follows:—

Short title.

1. (1) This Act may be called the Assam Revenue Tribunal (Transfer of Powers) Act, 1948.

Extent.

(2) It extends to the whole of the Province of Assam.

Commence-
ment.

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

Definition.

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Assam High Court" means the Assam High Court as constituted under the Assam High Court Order, 1948.

(2) "Prescribed" means prescribed by rules made under this Act.

(3) "Schedule" means a schedule to this Act.

Transfer of
powers and
functions of
the Tribunal.

3. (1) Subject to the provisions of sub-section (3) of this section the Assam High Court shall exercise such jurisdiction to entertain appeals and revise decisions in revenue cases as was vested in the Provincial Government immediately before the first day of April 1937 under any law for the time being in force.

(2) In particular and without prejudice to the generality of the foregoing provision the Assam High Court shall have jurisdiction to entertain appeals and revise decisions in all revenue cases arising under the provisions of the enactments specified in Schedule A in which such jurisdiction was vested in the Provincial Government immediately before the first day of April 1937, and

(3) Without prejudice to the foregoing provisions the authority appointed by general or special order of the Provincial Government shall exercise such jurisdiction to entertain appeals and revise decisions in matters arising under the provisions of the enactments specified in the Schedule B as is exercised now by the Revenue Tribunal and was vested in the Provincial Government before the first day of April 1937, and

[Price 2 annas or 3d.]

(4) The Assam High Court and the authority appointed by Provincial Government shall have jurisdiction to entertain appeals and revise decisions within the field of jurisdiction respectively transferred by this Act to the Assam High Court and the authority appointed by the Provincial Government in cases specified in section 7(2).

The High Court to exercise all powers which Provincial Government could have exercised.

4. In the exercise of the jurisdiction conferred by section 3(1), (2) and (4) in any case the Assam High Court shall have and may exercise all the powers which the Provincial Government or the Revenue Tribunal as the case may be had or could have exercised in such case.

No appeal to lie.

5. No appeal or revision shall lie against any order passed by the Assam High Court or the authority referred to in section 3(3) in the exercise of its powers of appeal or revision under this Act.

Review of orders of the High Court.

6. (1) The Assam High Court or the authority referred to in section 3(3) may, either on its own motion or on the application of any party interested, review its own decision or order in any case and pass in reference thereto such order as it thinks fit:

Provided that no such application made by any party shall be entertained unless the Assam High Court or the authority as the case may be is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of such party, or could not be produced by him at the time when its decision was made, or that there has been some mistake or error apparent on the face of the record, or for any other sufficient reason:

Provided further that no such decision or order shall be varied or revised unless notice has been given to the parties interested to appear and an opportunity has been given to be heard in support of such order.

(2) An application for review under sub-section (1) by any party shall be made within ninety days from the date of the decision or order of the Assam High Court or the authority as the case may be.

(3) In computing the period of limitation, the provisions of the Indian Limitation Act, 1908, applicable to applications for review of a judgment or order of a civil court shall, so far as may be, apply to applications for review under this section. Act IX of 1908.

Abolition of the Assam Revenue Tribunal and disposing of pending cases.

7. (1) From the date on which this Act comes into force—

The Assam Revenue Tribunal shall be deemed to have been abolished; and the President and members thereof shall be deemed to have relinquished their posts as President and members of the Tribunal. Assam Act II of 1946.

(2) The appeals and applications for revision pending before the said Tribunal on the date on which this Act comes into force shall be deemed to have been instituted before the Assam High Court or the authority referred to in section 3(3) according to the field of jurisdiction transferred by this Act to the High Court and the aforesaid authority respectively and shall be decided as if they were instituted before the Assam High Court or the authority as the case may be.

8. (1) The Assam High Court may by notification in the official Gazette make rules consistent with the provisions of this Act for carrying out the purposes of this Act. The Provincial Government will likewise make rules for the guidance of the Authority appointed by it as contemplated by section 3(3).

(2) Such rules shall be subject to the condition of previous publication.

Repeal.

9. The Assam Revenue Tribunal Act, 1946, and the Assam Revenue Tribunal (Amendment) Act, 1947, are hereby repealed.

Assam Act
II of 1946.
Assam Act
III of 1947.

Savings.

10. The repeal by this Act of any enactment shall not affect any Act or Regulation in which such enactment has been applied, incorporated or referred to ; nor shall the repeal by this Act of any enactment revive or restore any jurisdiction, office, custom, liability, right, title, privilege, restriction, exemption, usage, practice, procedure or other matter or thing not now existing or in force.

SCHEDULE A

Serial No.	Act	Jurisdiction
1	The Assam Land and Revenue Regulation, 1886 (I of 1886).	<ol style="list-style-type: none"> 1. Application against sale of estates for arrears of revenue under section 81. 2. Application against sale of defaulting estates on the ground of material irregularity and mistake in publishing and conducting sale under section 79. 3. An appeal against the Deputy Commissioner's order making partition under section 117. 4. Appeal against any original or appellate order passed by the Deputy Commissioner of a district under section 147(b). 5. Revision under section 151. 6. Appeals and revision under rules for the time being in force made under the Regulation.

SCHEDULE A—concl'd.

Serial No.	Act	Jurisdiction
2	The Assam Local Rates Regulation, 1879 (III of 1879).	Appeal under section 8 against the order of any officer appointed under section 6 to assess or collect the rates.
3	The Bengal Public Demands Recovery Act, 1913 (III of 1913).	Revision of the order under section 53.
4	The Assam Motor Vehicles Taxation Act, 1936 (IV of 1936).	Revision under section 17.
5	The Assam (Temporarily-Settled Districts) Tenancy Act, 1935 (III of 1935).	1. Application under section 83(2). 2. Application under section 102.

SCHEDULE B

1	The Eastern Bengal and Assam Excise Act, 1910 (I of 1910).	1. Appeal against the order of the Excise Commissioner and power to call for proceedings and revise order of a subordinate officer under section 9. 2. Decisions regarding technical defects, irregularities and omission under section 27.
2	The Opium Act, 1878 (I of 1878).	1. Appeal or revision under rules for the time being in force made under section 5. 2. Appeal or revision against an order passed under sections 23, 24 and 25.
3	The Assam Forest Regulation, 1891 (VII of 1891).	1. Appeals in matters of sections 11, 12, 13 and 14. 2. Revision under section 20 of arrangements made under section 13 or 16. 3. Appeals and revisions under the rules for the time being in force made under the Regulation.
4	The Motor Vehicles Act, 1939 (IV of 1939).	Appeals against the order of the Provincial Transport Authority in any matter falling under section 64, sub-sections (a), (b), (c), (d), (e) and (f).