

ASSAM ACT II OF 1946.

THE ASSAM REVENUE TRIBUNAL ACT,
1946.

[Passed by the Assam Legislature]

[Received the assent of the Governor on the 28th May, 1946.]

[Published in the *Assam Gazette* of the 5th June 1946]

An Act to provide for the constitution of a Revenue Tribunal.

Preamble. WHEREAS it is expedient to provide for the constitution of a Revenue Tribunal for the Province of Assam by an Act of the Provincial Legislature ;

It is hereby enacted as follows :—

CHAPTER I

PRELIMINARY

Short title, extent and commencement. 1. (1) This Act may be called the Assam Revenue Tribunal Act, 1946.
(2) It extends to the whole of the Province of Assam.

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

(2) "Schedule" means the schedule to this Act.

(3) "The Tribunal" means the Assam Revenue Tribunal constituted under section 3.

(4) "Non-official" means a person who at the time of his appointment does not hold any office of profit under the Crown in India.

CHAPTER II

CONSTITUTION, POWERS AND FUNCTIONS OF THE
ASSAM REVENUE TRIBUNAL

Constitution of Tribunal. 3. (1) The Provincial Government shall constitute a Tribunal to be called the Assam Revenue Tribunal. The Tribunal shall consist of a President and two Members.

Term of appointment. (2) The President and Members of the Tribunal shall be appointed for a term of five years.

Price—2 annas or 2d.

Qualifications of the President and Members. (3) (a) The President shall be a non-official, and shall possess the qualifications of a High Court Judge as laid down in sub-section (3) of section 220 of the Government of India Act, 1935. 26, Geo. 5, Ch. 2.

(b) Of the Members, one shall be a non-official who has been for not less than ten years a pleader, advocate, or barrister, or who has for at least ten years held a judicial office in British India not inferior to that of a subordinate Judge, and the other shall be the Director of Land Records, Assam.

(c) No person shall be appointed to or retained in the post of President or non-official Member after he has attained the age of sixty years.

Filling of vacancies. (4) Any vacancy in the office of the President or the non-official Member of the Tribunal shall be filled up in such manner as may be prescribed.

Salary of officers. (5) The President and the non-official Member shall be paid such salary as may be prescribed.

Termination of terms of officers. 4. Notwithstanding anything contained in the preceding section, the Provincial Government may in its discretion terminate at any time the term of office of the President or the non-official Member of the Tribunal, if, in its opinion, such President or Member is unable or unfit to continue to perform the duties of his office.

Powers and functions of the Tribunal. 5. (1) The Tribunal shall exercise such jurisdiction to entertain appeals and revise decisions in revenue cases as was vested in the Provincial Government immediately before the 1st 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 Tribunal shall have jurisdiction to entertain appeals and revise decisions:—

(a) in all revenue cases arising under the provisions of the enactments specified in the schedule, in which such jurisdiction was vested in the Provincial Government immediately before the 1st day of April 1937, and

(b) in all cases specified in section 9.

(3) Save as expressly provided in any enactment for the time being in force the Provincial Government may, by notification in the official Gazette, direct by general or special order that the Tribunal shall also have jurisdiction to entertain and decide appeals and applications for revision in any case in which the Provincial Government has or may have jurisdiction to entertain and decide such appeals and applica-

tions. The Provincial Government may at any time, by like notification, cancel any direction issued by it under this sub-section.

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

6. In the exercise of the jurisdiction conferred by section 5 in any case the Tribunal shall have and may exercise all the powers which the Provincial Government had or could have exercised in such case.

No appeal to lie.

7. No appeal or revision shall lie against any order passed by the Tribunal in the exercise of its powers of appeal or revision under this Act.

Review of orders of the Tribunal.

8. (1) The Tribunal 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 Tribunal 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 Tribunal.

(3) In computing the period of limitation, the provisions of the Indian Limitation Act, 1908, Act IX of 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.

Abolition of the Assam Revenue Tribunal constituted under Government Notification No.1228-R., dated the 1st April 1937, and disposing of pending cases.

9. From the date on which this Act comes into force the Assam Revenue Tribunal constituted by Government Notification in the Revenue Department No.1228-R., dated the 1st April 1937, shall be deemed to have been abolished ; and all 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 Tribunal and shall be decided as if they were instituted before it.

Manner of executing orders passed by Tribunal. 10. All orders passed by the Tribunal shall be executed in the manner in which similar orders, if passed by the Provincial Government or other competent authority as the case may be, could have been executed.

CHAPTER III

MISCELLANEOUS

Rules. 11. (1) The Provincial Government may by notification in the official Gazette make rules consistent with the provisions of this Act for carrying out the purposes of this Act save in regard to the matters specified in section 12.

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

Regulations for the business and procedure for the Tribunal. 12. (1) Subject to the previous sanction of the Provincial Government the Tribunal shall from time to time frame regulations consistent with the provisions of this Act and rules made under section 11 for regulating its procedure and the disposal of its business.

(2) Regulations made under sub-section (1) shall be published in the official Gazette.

SCHEDULE

Serial No.	Act	Jurisdiction
1	The Assam Land and Revenue Regulation, 1886 (I of 1886).	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 filing and conducting sale in respect of places where there is no Commissioner under section 79. 3. An appeal against the Deputy Commissioner's order making partition in respect of places where there is no Commissioner under section 117. 4. Appeal against any original or appellate order under section 147(a). 5. Appeal against any original or appellate order passed by the Deputy Commissioner of a district not included in any Division of a Commissioner or by a Settlement Officer of any such district under section 147(b). 6. Revision under section 151. 7. Appeals and revision under rules for the time being in force made under the Regulation.
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.

Serial No.	Act	Jurisdiction
5	The Eastern Bengal and Assam Excise Act, 1910 (I of 1910).	<ol style="list-style-type: none"> 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.
6	The Opium Act, 1878 (I of 1878).	<ol style="list-style-type: none"> 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.
7	The Assam Forest Regulation, 1891 (VII of 1891).	<ol style="list-style-type: none"> 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.
8	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).
9	The Assam (Temporarily-settled Districts) Tenancy Act, 1935 (III of 1935).	<ol style="list-style-type: none"> 1. Application under section 83(2). 2. Application under section 102.