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THE ASSAM GAZETTE

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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 19th April, 2005

No. LGL.36/2005/16.-- The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XI OF 2005

(Received the assent of the Governor on 18th April, 2005)

THE ASSAM TAXATION (LIQUIDATION OF ARREAR DUES) ACT, 2005

AN
ACT

to provide for liquidation of long outstanding dues of arrear tax, penalty and interest under a few Acts.

Preamble.

Whereas it has become expedient to provide for liquidation of long outstanding dues relating to tax, penalty and interest, as the case or cases as may be, under the Assam General Sales Tax Act, 1993, Central Sales Tax Act, 1956, the Assam Amusements and Betting Tax Act, 1939, the Assam Taxation (Hotel and Lodging Houses) Act, 1989, the Assam Taxation (On Specified Lands) Act, 1990, the Assam Agricultural Income Tax Act, 1939, the Assam Taxation (On Luxuries) Act, 1997 and the repealed sales tax Acts as referred to in sub-section (1) of section 74 of the Assam General Sales Tax Act, 1993 by offering one time incentive in the form of waiver of the balance portion of qualifying arrear dues remaining after payment of the prescribed percentage of the total dues within the stipulated dateline;

Assam Act No. XII of 1993, Central Act 74 of 1956, Assam Act No. VI of 1939, Assam Act No. V of 1989, Assam Act No. XII of 1990, Assam Act No. IX of 1939, Assam Act No. VIII of 1997, and Assam Act No. XII of 1993.

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

Short title, extent and commencement.

1. (1) This Act may be called the Assam Taxation (Liquidation of Arrear Dues) Act, 2005.
- (2) It extends to the whole of Assam.
- (3) It shall come into force at once and shall remain in force till 31st July, 2005 or by such later date as the State Government may, by notification in the Official Gazette, specify from time to time.

Definitions.

2. (1) In this Act, unless the context otherwise requires,-
 - (a) "Applicant" means a dealer, a proprietor, a hotelier, an owner or an assessee as defined in the relevant Act and includes legal heirs, successors, assignees or nominees of such dealer, proprietor, hotelier, owner or an assessee;
 - (b) "Long outstanding dues of arrear tax, penalty and interest" means unpaid amounts as on the date of coming into force of this Act on account of tax, interest and penalty by an applicant as per statutory orders under any provision of the relevant Acts passed on or before 31st March, 1999 or by such later date as the State Government may, by notification in the Official Gazette, specify from time to time and also includes further calculable interest on the involved principal amounts upto the date of application within the meaning of section 5 of this Act;
 - (c) "prescribed" means prescribed by rules made thereunder;

(d) "Relevant Acts" means any one or more of the following Acts, namely:-

- (i) the Assam General Sales Tax Act, 1993, (Assam Act No. XII of 1993);
- (ii) the Central Sales Tax Act, 1956, (Central Act 74 of 1956);
- (iii) the Assam Amusements and Betting Tax Act, 1939, (Assam Act No. VI of 1939);
- (iv) the Assam Tax on Luxuries (Hotels and Lodging Houses) Act, 1989, (Assam Act No. V of 1989);
- (v) the Assam Taxation (On Luxuries) Act, 1997 (Assam Act No. VIII of 1997);
- (vi) the Assam Taxation (On Specified Lands) Act, 1990, (Assam Act No. XII of 1990);
- (vii) the Assam Agricultural Income Tax Act, 1939, (Assam Act No. IX of 1939);
- (viii) the repealed Acts as mentioned in sub-section (1) of Section 74 of the Assam General Sales Tax Act, 1993, (Assam Act No. XII of 1993).

(2) Unless there is anything repugnant in the subject or contexts, all expressions used in this Act, which are not defined in this Act but defined in the relevant Acts, or used in the relevant Acts, shall have the meanings respectively assigned to them in the relevant Acts.

Designated Authority.

3. The Senior Superintendents of Taxes or the Superintendents of Taxes or the Agricultural Income Tax Officers exercising jurisdiction over an applicant at the commencement of this Act shall be the Designated Authority for the purpose of receiving and disposing an application under section 5 of the Act.

Eligibility conditions.

4. Subject to other provisions of this Act, an applicant shall be eligible to make an application under this Act for all his outstanding dues in respect of amounts assessed or levied against him on or before 31.03.1999 but not lying in dispute before any statutory forum or the Gauhati High Court or the Supreme Court of India as on the date of application under the Act.

Application for waiver.

5. (1) An application for the purpose of section 4 of the Act shall be made to the respective Designated Authority by an application in the prescribed form and manner alongwith the receipted copy of the designated bank challan for the payable amount according to the prescribed formula and by the prescribed deadline in the Schedule attached to the Act;

(2) A separate application shall be made by an applicant for the applicable different assessment periods as well as the applicable different relevant Acts.

Procedure for application.

6. (1) The Designated Authority shall, ordinarily within thirty days from the date of receipt of an application referred to in section 4 of the Act, verify the correctness of the particulars furnished in such application.

(2) Where the Designated Authority is satisfied about the correctness of the particulars set forth in the application made by an applicant, he shall determine, by an order in writing, the amount payable by the applicant as well as the amount entitled for waiver for the concerned assessment period under the applicable relevant Acts according to the formula specified in the Schedule attached to this Act.

Provided that while determining the amount payable by the applicant as determined under this sub-section shall be rounded off to the nearest rupee and for this purpose, where such amount contains a part of a rupee, then, if such part is fifty paise or more, it shall be rounded off to a rupee, and if such part is less than fifty paise, it shall be ignored.

(3) An applicant shall deposit the balance payable amount, if any, pursuant to the determination completed by the Designated Authority upon his application made under this Act.

(4) In case the long outstanding dues of arrear tax, penalty and interest is under recovery or bakijai proceeding at the hand of an authority other than the Designated Authority, the latter shall immediately notify such other authority about the status of the arrear certificate initially sent by him after receipt of a valid application within the meaning of section 3 of the Act and shall withdraw the same as soon as proceedings under sub-section (2) of this section are finalised and the payable amount thereon is deposited in full by an applicant.

Refusal in certain cases.

7. The Designated Authority, for reasons to be recorded in writing, may refuse to entertain an application made under section 5 of the Act with the prior approval of the Zonal Deputy Commissioner of Taxes:

Provided that no order in this regard shall be passed without allowing the applicant a reasonable opportunity of being heard.

Settlement of arrear dues.

8. Consequent upon determination of the amount under section 6 and payment in full of such determined amount, an applicant shall stand discharged from any further liability in respect of the involved dues subject to other applicable provisions of the Act.

Rectification of the order of settlement.

9. The Designated Authority may, at any time within ninety days from the date of any order passed by him under this Act, rectify any arithmetical mistake or other mistake of a factual nature apparent from the record of the case:

Provided that no such rectification adversely affecting the applicant shall be passed without allowing him a reasonable opportunity of being heard.

Revocation of order of settlement.

10. (1) Where it appears to the Designated Authority that an applicant has obtained the benefit of waiver under this Act by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, such assessing authority may, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of being heard, revoke any order passed under sub-section (2) of section 6.

(2) After availing the benefit under the Act, if the matter is subsequently agitated before any statutory forum as provided under the relevant Acts or any court of law, then the benefits conferred by this Act shall be treated as withdrawn.

No refund of amount paid under the Act.

11. Any amount paid by an applicant within the meaning of any provision under this Act shall not be refundable under any subsequent circumstances:

Provided that in the case of revocation of an order passed under sub-section (1) of section 10, the amounts paid by the applicant under various provisions of this Act shall be deemed as payment made under the concerned relevant Acts for the applicable period.

Manner of payment.

12. The amounts payable under the provision of this Act shall be paid in the same manner as is specified in the relevant Acts or the rules framed thereunder.

- Power of the State Government to make rules.** 13. The State Government may, by notification published in the Official Gazette, make rules, with prospective or retrospective effect, for carrying out the purposes of this Act, and such rules may provide for all or any of the matters which, under any provision of this Act, is required to be prescribed or to be provided for by rules.
- Power to remove difficulties.** 14. If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order, not inconsistent with the provisions of this Act, remove the difficulty.

Schedule
(See Section 6)

| Sl No. | Description of the outstanding dues | Payment to be made under this Act on the date to avail the benefit as per column (4) | Amount to be paid for filing application to avail benefit under this Act. |
|--------|-------------------------------------|--|--|
| (1) | (2) | (3) | (4) |
| 1 | Amount of total outstanding dues. | On or before 31 st July, 2005. | 100% of arrear tax and 50% of the total arrear interest. Total penalty will be waived. Provided that if total outstanding dues consist of only penalty amount, then 50% of the penalty. |

M. A. HAQUE,
Secretary to the Govt. of Assam,
Legislative Department, Dispur.