

পঞ্জীভুক্ত নম্বৰ ৭৬৮/৯৭

Registered No.768/97

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ৰাজপত্ৰ

THE ASSAM GAZETTE

অসাধাৰণ

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 17th May, 2000

No. LGL.152/99/20.--The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. VII OF 2000

(Received the assent of the Governor on 12th May, 2000)

THE ASSAM TAXATION (SETTLEMENT OF DISPUTES)

ACT, 2000

AN

ACT

to provide for expeditious settlement of disputes in respect of arrear tax, penalty or interest and expeditious payment thereof under the relevant Acts relating to sales tax, entertainment tax, tax on luxury, tax on specified land and agricultural income by way of settlement of such disputes on a one time basis and the matters connected therewith or incidental thereto.

Whereas it is expedient to provide for settlement of disputes and enforcement of payment of arrear tax, penalty or interest, as the case may be under the Assam General Sales Tax Act, 1993, the Central Sales Tax Act, 1956, the Assam Amusement and Betting Tax Act, 1939. The Assam Tax on Luxuries (Hotels and Lodging Houses) Act, 1989, the Assam Taxation (on Luxuries) Act, 1997, the Assam Taxation (on Specified Lands) Act, 1990, the Assam Agricultural Income Tax Act, 1939 and other repealed Acts referred to in sub-section (1) of Section 74 of the Assam General Sales Tax Act, 1993,

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. VIII of 1997, Assam Act No. XII of 1990, Assam Act No. IX of 1939 and Assam Act No. XII of 1993 respectively

Be it enacted by the Legislative Assembly of the State of Assam in the Fifty first Year of the Republic of India as follows :-

Short title,
extent and
commencement.

1. (1) This Act may be called the Assam Taxation (Settlement of Disputes) Act, 2000.
- (2) It extends to the whole of the State of Assam.
- (3) It shall come into force from the date of its publication in the Official Gazette.

Definitions.

2. (1) In this Act, unless the context otherwise requires, -
 - (a) "applicant" means a dealer, a proprietor, a hotelier, an owner, a stockist or an assessee as defined in the relevant Act and includes legal heirs, successors, assignees or nominees of such dealer, proprietor, hotelier, owner, stockist or an assessee ;
 - (b) "arrear tax, penalty or interest in dispute" means, -

- (i) tax, by whatever name called, including additional tax, if any payable by an applicant upon assessment under the relevant act, or
- (ii) penalty payable by an applicant under the relevant Act, or
- (iii) interest payable by an applicant under the relevant Act,

which, as the case may be, is in dispute in any appeal or revision pending before the appellate authority or revisional authority including the Assam Board of Revenue, the Gauhati High Court and the Supreme Court of India on the 31st day of March, 2000 under the relevant Act ;

Explanation :- The amount of arrear tax, penalty or interest which, though included in the appeal petition or the revision petition, is not actually in disputes shall be excluded for the purpose of calculating the arrear tax, penalty or interest in dispute.

- (c) "designated authority" means the authority appointed under section 3 to receive the application for settlement of dispute and to dispose of the same ;
- (d) "notified authority" means the authority appointed under section 3 to perform the functions under sub-section (3) and sub-section (4) of section 8 ;
- (e) "prescribed" means prescribed by rules made under this Act ;
- (f) "relevant Act" means any one or more of the following Acts :-
 - (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) and

includes the rules made, or notifications issued under the Acts referred to in sub-clauses (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) above.

- (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 Act, or used in the relevant Act, shall have the same meaning as in the relevant Act.

Designated authority and notified authority.

3. For carrying out the purposes of this Act, the State Government may, by notification published in the Official Gazette appoint one or more authorities, referred to section 3 of the Assam General Sales Tax Act, 1993 to be the designated authority and the notified authority and such authorities shall exercise jurisdiction over such area or areas as the State Government may specify in the notification.

Assam Act
No. XII of
1993.

Eligibility for settlement.

4. (1) Subject to the other provisions of this Act, an applicant shall be eligible to make an application for settlement of arrear tax, penalty or interest in dispute in respect of any period for which an assessment has been made under the relevant Act and an appeal or revision relating thereto is pending on the 31st March, 2000, before any appellate authority or revisional authority, or any other authority as the case may be :

Provided that where an applicant has filed a writ petition or appeal or reference or revision before the Assam

Board of Revenue, the Gauhati High Court or the Supreme Court against any order in respect of the arrear tax, penalty or interest in dispute, the applicant shall file an application before such Board, High Court or Supreme Court, as the case may be, for withdrawing such writ petition, appeal, reference or revision and after withdrawal of such writ petition, appeal, reference or revision, as the case may be, with the leave of the Court, the applicant shall be eligible to make an application for settlement under this Act by furnishing proof of such withdrawal.

(2) Notwithstanding anything contained in sub-section (1), an applicant shall not be eligible to make an application for settlement of arrear tax, penalty or interest in dispute in respect of any period under the relevant Act for which the appeal or revision has been finally heard by the appellate authority or the revisional authority, as the case may be.

Explanation :- For the purpose of this sub-section, no appeal or revision shall be deemed to have been heard only by reason of any stay order having been passed by any appellate authority or revisional authority in connection with such appeal or revision.

(3) Notwithstanding anything contained in sub-section (1), an applicant shall not be eligible to make an application for settlement where prosecution for any offence punishable under any provision of the relevant Act has been instituted in respect of any arrear tax, penalty or interest in dispute.

Explanation :- The prosecution has been instituted implies that the prosecution is pending before the Court. A mere show-cause notice shall not debar an applicant from making an application for settlement under this Act.

Application for settlement.

5. (1) An application for the purpose of Section 4 shall be made to the designated authority by an applicant in such form, and in such manner, as may be prescribed, on or before the 31st day of July, 2000 or by such later date as the State Government may, by notification in the Official Gazette, specify from time to time.

(2) Separate applications shall be made by an applicant for different periods under each of the relevant Acts.

(3) The applicant shall send a copy of the application made under sub-section (1) to the appellate authority or the

revisional authority before whom the appeal or revision, as the case may be, is pending, within seven days from the date of making such application before the designated authority.

**Determination
of amount
payable by the
applicant.**

6. (1) The designated authority shall, ordinarily within sixty days from the date of receipt of an application referred to in Section 5, verify the correctness of the particulars furnished in such an application with reference to the connected records available with the assessing authority, appellate authority or any other authority, as the case may be.

(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 for the purpose of settlement of arrear tax, penalty or interest in dispute at the rate specified in section 7 :

Provided that while determining the amount payable by the applicant for the purpose of settlement of arrear tax, penalty or interest in dispute, the designated authority shall take into account any amount of arrear tax, penalty or interest in dispute paid by the applicant before making an application under Section 5 and deduct the amount so paid by him from the amount determined as payable by the applicant under this sub-section :

Provided further that the amount payable by an 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) After the amount payable by an applicant is determined under sub-section (2), the designated authority shall, subject to such conditions and restrictions as may be prescribed, require the applicant, by a notice in such form as may be prescribed, to pay the amount so determined under sub-section (2) within thirty days from the date of receipt of such notice by the applicant or within such further time as may be prescribed.

(4) The applicant shall pay in one instalment, the sum determined by the designated authority as per the terms of the notice and intimate the fact of such payment to the

designated authority within fifteen days of making such payment together with a copy of duly received challan showing payment of the amount specified in the notice issued under sub-section (3).

(5) The amount required to be paid in terms of the notice issued under sub-section (3) shall be paid in such manner as is specified in the relevant Act or the rules framed thereunder.

Rate applicable in determining the amount payable.

7. (1) The amount payable by an applicant for settlement of dispute under this Act shall be,

(a) where the dispute relates to any arrear tax, at the rate of fifty per centum of the arrear tax in dispute, or

(b) where the dispute relates to any arrear interest, at the rate of twenty five per centum of the arrear interest in dispute.

(2) The arrear penalty in dispute, if any, shall be waived.

Settlement of dispute and issue of certificate of settlement.

8. (1) The designated authority, on being satisfied about the payment of the amount which the applicant is required to pay by virtue of the notice under sub-section (3) of section 6, shall settle the dispute in respect of which an application has been made under sub-section (1) of section 5 and issue a certificate of settlement for such dispute in such form as may be prescribed, to the applicant, ordinarily within thirty days of receipt of the copy of duly received challan in support of payment made by the applicant and thereupon, such applicant shall be discharged from his liability to make payment of the balance amount of such arrear tax, penalty or interest in dispute :

Provided that where no payment is required to be made by an applicant by reason of an adjustment as referred to in the first proviso to sub-section (2) of section 6 and no notice is issued to him under sub-section 3, of section 6 the designated authority shall settle the dispute and issue a certificate for such dispute to such applicant :

Provided further that a certificate of settlement shall be issued by the designated authority separately in respect of every application made under section 5.

(2) The designated authority, for reasons to be recorded in writing, may refuse to settle a dispute :

Provided that no order refusing to settle a dispute shall be passed without allowing the applicant a reasonable opportunity of being heard.

(3) The designated authority may at any time within ninety days from the date of issue of the certificate under sub-section (1), rectify any error apparent on the face of the record :

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

(4) (a) the notified authority within ninety days of the order passed by the designated authority may, either of his own motion or on an application by the applicant, call for and examine the records of any proceeding under this Act and may pass such order thereon as it deems fit :

Provided that no such order shall be passed without allowing a reasonable opportunity of being heard to the applicant as well as to the designated authority.

(b) The order passed by the notified authority under this sub-section shall be final and binding on the designated authority as well as on the applicant.

Bar on re-opening of settled cases.

9. Subject to the provisions of sub-section (3) and sub-section (4) of section 8, a certificate of settlement issued under sub-section (1) of section 8 shall be conclusive as to the dispute to which it relates, and no matter covered by such certificate of settlement shall be re-opened in any proceeding of appeal or revision, or any other proceeding, under the relevant Act.

Withdrawal of appeal and revision.

10. Notwithstanding anything to the contrary contained in any provision in the relevant Act, the appeal or revision for any period pending before the appellate authority or the revisional authority, as the case may be, other than the Assam Board of Revenue, the Gauhati High Court and the Supreme Court, in respect of which a certificate of settlement is issued under sub-section (1) of section 8, shall be deemed to have been withdrawn by the applicant from the date of making of the application by the applicant under sub-section (1) of section 5.

Appellate authority and revisional authority not to proceed in certain cases.

11. No appellate authority or revisional authority other than the Assam Board of Revenue, the Gauhati High Court and the Supreme Court shall proceed to decide any appeal or revision under the relevant Act relating to any period in

respect of which an application has been made by an applicant under section 5 :

Provided that such authority shall proceed to decide such appeal or revision for such period in accordance with the provisions of the relevant Act, if a certificate of settlement referred to in sub-section (1) of section 8 is refused to the applicant by an order passed by the designated authority in writing under sub-section (2) of section 8 or by the notified authority under sub-section (4) of section 8.

Revocation of certificate of settlement.

12. (1) Notwithstanding anything contained in Section 9 or section 10, where it appears to the designated authority that an applicant has obtained the benefit of settlement under this Act by suppressing any material information or particulars or by furnishing any incorrect or false information or particulars, such designated authority may, for reasons to be recorded in writing and after giving the applicant a reasonable opportunity of being heard, revoke the certificate of settlement issued under sub-section (1) of section 8.

(2) If a certificate of settlement is revoked under sub-section (1), the appeal or revision, as the case may be, under the relevant Act, covered by such certificate or settlement, shall, notwithstanding the provisions of section 9 or section 10 stand revived or reinstated immediately upon such revocation, and such appeal or revision shall be decided in accordance with the provisions of the relevant Act, as if no settlement of the arrear tax, penalty or interest in dispute in such appeal or revision has ever been made under this Act :

Provided that this sub-section shall not apply in respect of any case already withdrawn under the proviso to sub-section (1) of section 4 with the leave of the Assam Board of Revenue or the Gauhati High Court or the Supreme Court, as the case may be.

Information to be sent to the authorities under the relevant Act.

13. The designated authority shall keep the assessing authority, the appellate authority or the revisional authority, who, for the time being, has jurisdiction over the applicant under the relevant Act, informed, inter alia, of the fact of -

(a) making of an application by an applicant under section 5,

(b) passing of any order by the designated authority under section 8, and

(c) revocation of any certificate of settlement under section 12,

in such form and manner, and within such time, as may be prescribed.

No refund of amount paid under the Act.

14. Any amount paid by an applicant under section 6 shall not be refundable under any circumstances :

Provided that in the case of revocation of a settlement in accordance with section 12, the amount paid by the applicant under section 6 shall be treated to have been paid under the relevant Act for the period for which the certificate of settlement has been revoked.

Power of the State Government to make rules.

15. 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.

16. 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.

M. K. DEKA,

Secretary to the Govt. of Assam,
Legislative Department.