

(3) Any order passed by the Commissioner under sub-sections (1) and (2) shall, subject to the provisions of Section 32, be final.

7. Amendment of Section 32.—In Section 32 of the Principal Act—

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

“Within sixty days from the date of service of any order under sub-section (4) of Section 30 or sub-section (1) or (2) of Section 31, the dealer may, by petition in writing, require the Board to refer to the High Court any question of law arising out of such order or the Board may make such reference out of its own motion. Where the petition is made by a dealer, it shall be accompanied by a fee of one hundred rupees”.

(b) The words “or the Commissioner, as the case may be”, occurring in sub-sections (3) and (4) shall be deleted.

8. Amendment of clause (c) of sub-section (3) of Section 42.—In clause (c) of sub-section (3) of section 42 of the Principal Act the words “the State” shall be substituted by the words “this or any other State Government.”

9. Amendment to Schedule II.—In Schedule II to the Principal Act the following shall be inserted after serial No.1 as serial 1A:—

“1A Cigarettes, Cigars, and smoking tobacco in sealed containers.	One anna and six pies in the rupee”.
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ASSAM ACT XIII OF 1954

THE ASSAM TAXATION (ON GOODS CARRIED BY ROAD OR INLAND WATER-WAYS) ACT, 1954

(Passed by the Assembly)

(Received the assent of the Governor on the 9th April 1954)

[Published in the *Assam Gazette*, dated the 14th April 1954]

An

Act

*to provide for the levy of a tax on certain goods carried by road or inland water-ways in the
State of Assam*

Preamble.—WHEREAS it is expedient to impose a tax on certain goods carried by road or inland water-ways ;

It is hereby enacted as follows:—

1. Short title, extent and commencement.—(1) This Act may be called the Assam Taxation (on goods carried by roads or inland water-ways) Act, 1954.

(2) It extends to the whole of Assam.

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

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

(1) “Baler” means a person who owns or possesses a pressing machine for the compression of jute into bales.

(2) “Boat” means a vessel or watercraft propelled or pulled or towed by and or steam or mechanical power or any other device ;

(3) "Commissioner" means the Commissioner appointed under Section 6 this Act ;

(4) "Dealer" means a person who owns jute in bales before it is carried by motor vehicle, cart, trolley, boat, animal and human agency or any other means except railways or airways and includes his agent.

(5) "Government" means the State Government ;

(6) 'Maund' means forty standard seers of eighty tolas each.

(7) "Month" means any English calendar month ;

(8) "Motor Vehicle" means any mechanically propelled vehicle adapted for use upon roads whether the power of propulsion is transmitted thereto from an external or internal source and includes a chassis to which a body has not been attached and a trailer ;

(9) "Notification" means a notification published in the *Assam Gazette* ;

(10) "Prescribed" means prescribed by rules under the Act ;

(11) "Producer" means a producer of tea and includes the person in charge of the garden where tea is produced ;

(12) "Trolley" means a truck running on rails other than those operated by the Indian Railways ;

(13) "Year" means the financial year ; and

(14) 'Bale' means a compressed bundle of jute and includes both "Katcha" and "Pucca" bales.

(a) 'Katcha bale' means a package containing any jute or jute cuttings (together with any waste product or moisture, if any) pressed by pressing machine driven by manual labour or hydraulic or any power-driven machinery and commonly known in jute trade as Katcha bale and weighing up to four maunds.

(b) 'Pucca bale' means a package containing any jute or jute cuttings (together with any waste product or moisture, if any) pressed by hydraulic or any power-driven machinery and commonly known in jute trade as Pucca bale and generally weighing five maunds each.

3. Liability to tax.—Subject to the provisions of this Act and with effect from such date as the Government may, by notification, appoint, being not earlier than thirty days from the date of the said notification, (a) manufactured tea in chests carried by motor vehicle, cart, trolley, boat, animal and human agency or any other means except railways and airways shall be liable to a tax of one pice per pound of such tea and this tax shall be realised from the producer and (b) Jute carried in bales by motor vehicle, cart, trolley, boat, animal and human agency or any other means except railways and airways shall be liable to a tax of eight annas per maund of such jute which shall be realised from the dealer :

Provided that no tax shall be levied under this Act on any jute or tea in respect of which such tax has already been paid.

4. Charge of tax.—The tax shall be charged on the total net weight carried during a return period.

5. Determination of weight.—The net weight on which tax is payable shall be determined in the manner prescribed.

6. Taxing authorities.—(1) The Government may, for carrying out the purposes of this Act, appoint a Commissioner and such other officer or officers to assist him as it thinks fit.

(2) The officer or officers appointed under sub-section (1) shall exercise such powers, have jurisdiction over such area or areas and have such relation with one another as may be prescribed.

(3) The powers to be exercised by the above classes of officers and the area or areas in which these are to be exercised shall be such as may be prescribed.

(4) The Government may, instead of appointing any person under sub-section (1), invest, by notification, any officer to exercise any power under this Act and also specify therein the area in which power is to be exercised and thereupon such officer or officers shall be deemed to have been appointed under sub-section (1).

7. Return.—(1) Every producer and dealer shall furnish returns of manufactured tea carried in tea chests and of jute carried in bales in such form and to such authority as may be prescribed.

(2) In the case of any producer or dealer who, in the opinion of the Commissioner, is liable to pay tax for any return period or a part thereof, the Commissioner may serve, within two years of the expiry of the aforesaid period, a notice in the prescribed form upon him requiring him to furnish a return of goods carried and such producer or dealer shall thereupon furnish the return within the date and to the authority mentioned in the notice.

(3) The returns, during the first year of operation of the Act, shall be furnished for such period and within such time as may be notified by the Commissioner and thereafter quarterly and within thirty days of completion of the quarter in respect of which returns are to be filed.

(4) If any producer or dealer discovers any omission or other error in any return furnished by him, he may furnish a revised return at any time before assessment is made on the original return.

8. Licensing of Balers and returns.—(1) No baler shall operate or allow to be operated any jute pressing machine except under a license granted under this Act.

(2) Every licence granted under sub-section (1) shall contain such conditions as may be prescribed.

(3) Every baler shall furnish returns of jute baled by any jute-pressing machine owned or possessed by him in such form and to such authority as may be prescribed.

9. Assessment.—(1) If the Commissioner is satisfied that a return furnished by a dealer or a producer under Section 7 in respect of any period is correct and complete, he shall, by an order in writing, assess the producer or dealer and determine the tax payable by him on the basis of such return.

(2) If the Commissioner is not satisfied that a return furnished under Section 7 is correct and complete, he shall serve on the producer or dealer a notice requiring him, on the date and hour and place mentioned therein, either to attend in person or to produce or cause to be produced any evidence on which he may rely in support of his return.

(3) On the day mentioned in the notice under sub-section (2) or as soon afterwards as may be, the Commissioner, after hearing such evidence as the producer or dealer may produce and such other evidence as the Commissioner may require, shall, by an order in writing, assess the producer or dealer and determine the tax payable by him on the basis of such assessment.

(4) If a producer or dealer fails to make a return as required by Section 7 or having made the return, fails to comply with the terms of the notice issued under sub-section (2) of this section, the Commissioner shall, by an order in writing, assess to the best of his judgment the producer or dealer and determine the tax payable by him on the basis of such assessment:

Provided that before making assessment the Commissioner may allow the producer or dealer such further time as he thinks fit to make the return or to comply with the terms of the notice issued under sub-section (2) of this section.

10. Cancellation of assessment.—When a producer or dealer, in the case of an assessment under sub-section (4) of Section 9 satisfies the Commissioner, within one month from the date of service of a notice of demand as hereinafter

provided, that he was prevented by sufficient cause from making the return required by Section 7, or that he did not receive the notice issued under sub-section (2) of Section 9, or that he had not a reasonable opportunity to comply or was prevented by sufficient cause from complying with the terms of the notice, the Commissioner shall cancel the assessment and make a fresh assessment in accordance with the provisions of Section 9.

11. Assessment in cases of evasion and escape.—If in consequence of definite information which has come into his possession, the Commissioner is satisfied that any producer or dealer, though liable to pay tax in respect of any period, has nevertheless failed to make the return required of him, or that tea or jute chargeable to tax has escaped assessment in any period or has been under-assessed, the Commissioner may, at any time within two years of the expiry of that period, serve on the producer or dealer liable to pay tax a notice requiring him to furnish within such period, as may be mentioned in the notice, a return of manufactured tea in tea chests or jute in bales carried, in the prescribed form and may proceed to assess or re-assess the producer or 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 have ordinarily been charged, had there been no escape or evasion.

12. Rectification.—(1) The authority which made an assessment or passed an order on appeal or revision in respect thereof may, at any time within 3 years from the date of such assessment or order and of its own motion, rectify any mistake apparent from the record of the case, and shall, within the like period, rectify any such mistake as has been brought to its notice by an assessee:

Provided that no such rectification shall be made having the effect of enhancing the assessment unless the authority concerned has given notice to the assessee of its intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, a refund shall be due to the assessee.

(3) Where any such rectification has the effect of enhancing the assessment, a notice of demand shall be issued for the sum payable.

13. Penalty for non-submission of returns and evasion of taxes.—(1) If the Commissioner, in course of any proceedings under this Act, is satisfied that any producer, dealer or baler—

(a) has, without reasonable cause, failed to furnish the return which he was required to furnish under Section 7 or Section 11 or Section 8, or has, without reasonable cause, failed to furnish it within the time allowed and in the manner required, or

(b) has, without reasonable cause, failed to comply with a notice under sub-section (2) of Section 7, or

(c) has concealed the particulars of taxable tea or jute carried or deliberately furnished inaccurate particulars of such goods, or

(d) has evaded in any way the liability to pay tax, he may direct that such producer or dealer shall pay by way of penalty, in addition to the tax payable by him, a sum not exceeding that amount and in the case of a baler, a fine not exceeding rupees one thousand and he may also cancel the license of the baler.

(2) No order under sub-section (1) shall be made unless the producer or dealer or baler has been heard or has been given a reasonable opportunity of being heard.

(3) No penalty under this section shall be imposed by an officer appointed to assist the Commissioner without his previous sanction.

14. Assessment no bar to prosecutions or penalties.—Any assessment made under this Act shall be without prejudice to any prosecution or penalty instituted or imposed under the provisions of this Act.

15. Tax of deceased payable by representative.—(1) Where a producer or dealer dies after assessment but before payment of the tax, his executor, administrator or other legal representative shall be liable to pay, out of the estate of the deceased and to the extent to which it is capable of meeting the charge, the tax assessed as payable by such producer or dealer.

(2) Where a producer or dealer dies without having furnished the return required by Section 7 or 11 or after having furnished the return but before assessment, the Commissioner may proceed to make an assessment and determine the tax payable by the deceased and for this purpose he may require the executor, administrator or other legal representative, as the case may be, of the deceased to perform all or any of the obligations which he might, under the provisions of this Act, have required the deceased to perform. The tax thus determined shall be payable by the executor, administrator or other legal representative of the deceased, to the extent to which the estate of the deceased is capable of meeting the charge.

16. Appeal.—An appeal shall lie in the prescribed manner within thirty days from the date of service of any order of assessment or imposition of penalty passed under the provisions of this Act or any rules made thereunder to any authority not being the Commissioner specifically empowered by the State Government, by notification, to hear such appeals and the decision of the authority so empowered in any such appeal shall be final.

17. Revision.—The Commissioner may, either of his own motion within one year or on petition filed within ninety days of the service of the original order objected to or the date of the order of the appellate authority, as the case may be, call for the records of any proceedings under this Act in which an order has been passed and may, subject to the provisions of this Act, pass such order thereon as he thinks fit after such hearing as may be considered necessary.

18. Computation of the period of limitation.—In computing the period of limitation prescribed for an appeal or a revision, the day on which the order complained of was made and the time requisite for obtaining a copy of such order, shall be excluded.

19. Notice of demand.—When any tax or penalty or other dues is or are payable in consequence of any order passed under or in pursuance of this Act, the Commissioner shall serve upon the person liable to pay such tax or penalty or other dues a notice of demand in the prescribed form mentioning the sum so payable.

20. Tax when payable.—(1) Tax payable under this Act shall be paid in the manner hereinafter provided.

(2) Before any producer or dealer furnishes the returns required by sub-section (1) of Section 7, he shall, in the prescribed manner, pay into a Government Treasury the full amount of tax due from him under this Act on the basis of such returns, and shall furnish along with the returns a receipt from such treasury in token of payment of such tax.

(3) Where a revised return is submitted by a producer or dealer under sub-section (4) of Section 7, and if the revised return shows a greater amount of tax to be due than was payable on the basis of the original return, the producer or dealer shall pay the excess amount of tax in the manner provided in sub-section (2) and shall furnish along with the revised return a receipt in token of payment of such excess tax.

(4) The amount of tax due under the provisions of this Act—

(a) in excess of payments already made under sub-sections (2) and (3), or

- (b) where no payment has been made, shall be paid by the producer or dealer by such date as may be mentioned in the notice of demand and, where no such date is mentioned, it shall be paid within thirty days from the date of service of the notice.

21. Other dues when payable.—Any dues, other than the amount of tax, payable under this Act shall be paid by the producer or dealer concerned by such date as may be mentioned in the notice of demand, and where no such date is mentioned, it shall be paid within thirty days from the date of the service of the notice.

22. Mode of recovery.—(1) If the demand in respect of any dues under this Act is not paid on or before the date specified as aforesaid the producer or dealer shall be deemed to be in default:

Provided that he shall not be deemed, for so long as any appeal or revision remains pending, to be in default in respect of the portion of the dues in dispute.

(2) Where a producer or dealer is in default, the Commissioner may in his discretion, direct that, in addition to the amount due, a sum not exceeding that amount shall be recovered from the defaulter by way of penalty.

(3) Where a producer or dealer is in default, the Commissioner may order that the amount due including penalty, if any, shall be recoverable as an arrear of land revenue and may proceed to realise the amount due as such.

23. Refunds.—The Commissioner shall, in the prescribed manner refund to a producer or a dealer any sum paid or realised in excess of the sum due from him under this Act either by cash payment or, at the option of the producer or dealer, by set off against the sum due from him in respect of any other period. Any penalty remitted by the Commissioner shall be refunded or adjusted in the like manner.

24. Prosecution for failure to furnish returns, etc.—Whoever—

(1) knowingly submits false returns, or

(2) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information or

(3) contravenes the provision of sub-section (1) of Section 8 ;

shall, on conviction before a magistrate, be punishable in respect of each such offence with a fine which may extend to one thousand rupees and in default imprisonment not exceeding three months.

25. Cognizance of offence.—No court shall take cognizance of any offence under this Act, or under the rules made thereunder except with the previous sanction of the Commissioner.

26. Composition of offences.—(1) The Commissioner, may, either before or after institution of criminal proceedings under this Act, accept from the person charged with an offence under this Act or the rules made thereunder, by way of composition of the offence, a sum not exceeding one thousand rupees.

(2) On payment of such sum as may be determined by the Commissioner under sub-section (1), no further criminal proceedings shall be taken against the person concerned in respect of the same offence.

27. Maintenance and preservation of accounts.—(1) Every producer or dealer on whom a notice has been served to furnish return under sub-section (2) of Section 7, shall maintain such documents and keep a true account of taxable tea or jute, as the case may be, carried in such form and in such details as may be prescribed.

(2) Accounts referred to in sub-section (1) together with all vouchers relating to stocks, deliveries and quantity of taxable tea and jute carried shall be preserved for at least three years.

28. Power to order production of accounts.—(1) Subject to such conditions and restrictions as may be prescribed, any officer, appointed under Section 6 may, for the purpose of this Act, require any producer or dealer or baler to produce before him any accounts or documents, and to furnish any information, relating to stocks, deliveries and quantity of taxable tea and jute carried.

(2) If any officer appointed under Section 6 has reason to suspect that any producer or dealer, is attempting to evade assessment of any tax under this Act, he may, for reasons to be recorded in writing seize in the manner prescribed such accounts, registers or documents of the producer or dealer as may be necessary and shall grant a receipt for the same, and shall retain the same only for so long as may be necessary for the purpose of this Act.

29. Bar to suits in Civil Courts and indemnity.—No suit shall be brought in any Civil Court to set aside or modify any assessment made or orders passed under the provisions of this Act, and no prosecution, suit or other proceeding shall lie against any officer for anything in good faith done or intended to be done under this Act or the rules made thereunder.

30. Power to take evidence.—Any officer appointed under Section 6 shall have, for the purpose of this Act, the same powers as are vested in a Court under the Code of Civil Procedure, 1908 (Act V of 1908) when trying a suit, in respect of the following matters:—

(1) enforcing the attendance of any person and examining him on oath or affirmation;

(2) compelling the production of documents;

(3) issuing commissions for the examination of witnesses; and any such proceeding before the officer shall be deemed to be a "judicial proceeding" within the meaning of Sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code, 1860 (Act XLV of 1860).

31. Delegation of powers.—The Commissioner may delegate, by notification, any of his powers, except powers under Sections 17, 25 and 26, to any person appointed under Section 6 to assist him.

32. Power to make rules.—(1) The Government may, subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules may, in particular prescribe—

- (a) all matters expressly required or allowed by this Act to be prescribed;
- (b) the classes, duties and jurisdictions of the officers appointed for purposes of this Act;
- (c) the procedure to be followed and the forms to be adopted in proceedings under this Act;
- (d) the fees, if any, for petitions, certificates and other matters;
- (e) the nature of accounts to be maintained by a producer or dealer and the documents, if any, to accompany the goods carried; and
- (f) for any other matter necessary for giving effect to the purposes of this Act.