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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LAW DEPARTMENT

NOTIFICATION

The 18th May 1976

No. L.JL.519/74/23.—The following Act of the Assam Legislative Assembly which received the assent of the President of India is hereby published for general information.

ASSAM ACT IX OF 1976

(Received the assent of the President on the 4th May, 1976)

THE ASSAM TEA PLANTATIONS PROVIDENT FUND
(AND PENSION FUND) SCHEME (AMENDMENT)
ACT, 1975

An
Act

Further to amend the Assam Tea Plantations Provident Fund (and Pension Fund) Scheme Act, 1955.

Be it enacted by the Legislature of Assam in the Twenty-sixth Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Assam Tea Plantations Provident Fund (and Pension Fund) Scheme (Amendment) Act, 1975.

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

Amendment
of Section 7.

2. In Section 7 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(IA) An employer who contravenes, or makes default in complying with the provisions of Section 3 of the Scheme in so far as it relates to the payment of administrative charges, shall be punishable with imprisonment for a term which may extend to six months, but

(a) which shall not be less than three months in case of default in payment of the employees' contribution which has been deducted by the employer from the employees' wages;

(b) which shall not be less than one month, in any other case;

and shall also be liable to fine which may extend to two thousand rupees:

Provided that the Court may, for any adequate and special reasons to be recorded in the judgement, impose a sentence of imprisonment for a lesser term or of fine only in lieu of imprisonment.”

Insertion of new Sections 7 A, 7 AA. 3. After Section 7 of the principal Act, the following sections shall be inserted, namely :—

Enhanced punishment in certain cases after previous conviction.

"7A. Whoever, having been convicted by a Court of an offence punishable under this Act, the Scheme or the Pension Scheme commits the same offence shall be subject for every such subsequent offence to imprisonment for a term which may extend to one year but which shall not be less than three months and shall also be liable to fine which may extend to four thousand rupees.

Certain offences be made cognisable.

7AA. (1) Notwithstanding anything contained in the Code of Criminal procedure, 1973, an offence relating to default in payment of contribution by the employer punishable under this Act shall be cognisable.

Trial of Offence.

(2) No Court inferior to that of a Magistrate of the First Class shall try any offence under this Act or the Scheme or the Pension Scheme."

Amendment of Section 10

4. Section 10 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1), as re-numbered, for the words and figures "Section 230 of the Indian Companies Act, 1913 (Act VII of 1913)" the words and figures "Section 530 of the Companies Act, 1956" shall be substituted.

(b) after sub-section (1), as re-numbered, the following sub-section shall be inserted, namely :—

"(2) Without prejudice to the provisions of sub-section (1), if any amount is due from an employer in respect of the employees contribution (deducted from the wages of the employees) for a period of more than six months, the amount so due shall be deemed to be the first charge on the assets of the establishment, and shall notwithstanding anything contained in any other law for the time being in force, be paid in priority to all other debts".

Amendment of Section 16

5. In Section 16 of the principal Act—

The figure and the words "25 per cent of" shall be deleted.

Insertion of new Section 16 A.

6. After Section 16 of the principal Act, the following section shall be inserted, namely :—

Power of Court to make orders.

"16A. (1) Where an employer is convicted of an offence of making default in the payment of any contribution to the Fund or the Pension Fund or in the transfer of accumulations required to be transferred by him under Section 14, the Court may, in addition to awarding any punishment, by order in writing, require him within a period specified in the order (which the Court may, if it thinks fit and on

application in that behalf, from time to time, extend), to pay the amount of contribution or transfer the accumulations, as the case may be, in respect of which the offence was committed.

- (2) Where an order is made under sub-section (1) the employer shall not be liable under this Act in respect of the continuation of the offence during the period of extended period, if any, allowed by the court, but if, on the expiry of such period or extended period, as the case may be, the order of the Court has not been fully complied with, the employer shall be deemed to have committed a further offence and shall be punished with imprisonment in respect thereof, under Section 7 and shall also be liable to pay fine which may extend to one hundred rupees for every day after such expiry on which order has not been complied with.

7. After Section 16 A of the Act as amended the following Section shall be inserted, namely:—

Insertion of
new Section
16 B.

Liability in
case of trans-
fer of establi-
shment.

“16B. Where an employer, in relation to an establishment, transfers that establishment in whole or in part, by sale, gift, lease or licence or in any other manner whatsoever, the employer and the person to whom the establishment is so transferred shall jointly and severally be liable to pay the contribution and other sums due from the employer under any provision of this Act or the Scheme or the Pension Scheme, as the case may be, in respect of the period upto the date of such transfer.”

MD. SAADULLAH,
Joint Secretary to the Govt. of Assam,
Law Department.