

XIXVI

পঞ্জীভুক্ত নম্বৰ - ৭৬৮/৯৭

Registered No. 768/97



অসম বাজ পত্ৰ

THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT::: LEGISLATIVE BRANCH

NOTIFICATION

The 9th September, 2005

No.LGL.6/2003/pt/38 :- The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XXXVI OF 2005
(Received the assent of the Governor on 7.9.05)

THE ASSAM VALUE ADDED TAX (SECOND AMENDMENT) ACT, 2005

AN
ACT

further to amend the Assam Value Added Tax Act, 2003.

Preamble

Whereas it is expedient further to amend the Assam Value Added Tax Act, 2003, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

**Assam
Act VIII
of 2005.**

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

**Short title,
extent and
commence-
ment.**

1. (1) This Act may be called the Assam Value Added Tax (Second Amendment) Act, 2005.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

**Amendment
of section 2.**

2. In the principal Act, in section 2, for clause (59), the following shall be substituted, namely :-

"(59) "Zero;-rated sales" means the specified sales on which no tax is chargeable but are nevertheless eligible for input tax credit

**Amendment
of section 3.**

3. In the principal Act, in section 3,--
 - (i) in sub-section (3), for the word "Commissioner", occurring after the words "classes of cases as the" and before the word "may", the word "Government" shall be substituted ;
 - (ii) in sub-section (6), for the words and brackets, "Deputy Commissioner of Taxes (Appeals)", the words "Appellate Authority" shall be substituted.

**Amendment
of section 5.**

4. In the principal Act, in section 5, in sub-section (1), for the punctuation mark ".", the punctuation mark ":" shall be substituted and thereafter the following proviso shall be inserted, namely:

"Provided that the Government may, give any direction to the Commissioner in respect of the constitution and functioning of the Vigilance Cell under this section consistent with the provisions of this Act and such direction shall be binding on the Commissioner."

Amendment of section 7 5. In the principal Act, in section 7, in sub-section (6), in clause (a), the words "or a manufacturer." shall be omitted.

Amendment of section 10 6. In the principal Act, in section 10, in sub-section (3), in clause (iii), after the words and punctuation mark "inside the State,", the words "shall be deemed to be the first point seller and he" shall be inserted.

Amendment of section 14 7. In the principal Act, in section 14,-

- (i) in sub-section (5),
 - (a) in between the words "period of three years" and the punctuation mark ":", the words " in thirty six equal installments" shall be inserted;
 - (b) in the first proviso, for the punctuation mark ":", occurring at the end, the punctuation mark "." shall be substituted and the second proviso shall be omitted;
- (ii) in sub-section (9), in clause (g), for the punctuation mark ",", occurring at the end, the punctuation mark "." shall be substituted and thereafter the last paragraph, beginning with the words "the dealer shall be liable to pay" and ending with the words and the punctuation mark "till the last date of its payment." shall be omitted.

Amendment of section 20. 8. In the principal Act, in section 20, in sub-section (4),

- (i) in clause (i), after the punctuation mark ":", the word "and" shall be inserted;
- (ii) clause (ii) shall be omitted.

Amendment of section 21 9. In the principal Act, in section 21, in sub-section (4), in between the punctuation mark "." and the word and bracket "(TIN)", the words and bracket "or General Registration Number (GRN), as the case may be" shall be inserted.

Amendment of Section 31 10. In the principal Act, in section 31, sub-section (2) shall be omitted.

Insertion of section 31 A 11. the principal Act, after section 31, the following new section 31A shall be inserted, namely :-

"Presumption that the incidence of the tax has been passed on to the buyer. 31A. Every dealer who has paid the tax on sale of any taxable goods under this Act, shall, unless the contrary is proved by him, deemed to have passed on the full incidence of such tax to the buyer of such goods. "

Insertion of section 47 12. In the principal Act, in section 47,-

- (i) in sub-section (1), in clause (c), after the words "any person", the words "mentioned in clause (a) of this sub-section" shall be inserted;
- (ii) after sub-section (13), the following Explanation shall be inserted, namely:-

"Explanation.-For the removal of doubt it is hereby declared that for the purposes of this section, the word "Government" shall mean any State Government or the Central Government or the Government of any Union Territory of India."

Amendment of section 49 13. In the principal Act, in section 49, in between the words "end of the relevant year" and the punctuation mark ":", the punctuation mark and the words", whichever is later" shall be inserted.

Amendment of section 54 14. In the principal Act, in section 54, in sub-section (1), for the words, punctuation mark and number "1st April, 2003", the words "date of commencement of the Act" shall be substituted.

Amendment of section 56. 15. In the principal Act, in section 56,--

(i) in sub-section (1) in between the words "taxable sale to another" and the word "dealer", the word "registered" shall be inserted and the words and punctuation mark "whether registered or not," shall be omitted ;-

(ii) in sub-section (2),

(a) in clause (d), for the punctuation mark ".", occurring at the end, the punctuation mark and the word "; or" shall be substituted;

(b) after clause (d), a new clause(e) shall be inserted, namely :-

"(e) the sale of goods is taxable at the first point of sale under the Fourth Schedule.";

(iii) in sub-section (4),

(a) in clause (f), for the punctuation mark ";", occurring at the end, the punctuation mark "." shall be substituted;

(b) clause (g) shall be omitted;

(iv) in sub-section (6),-

(a) in clause (b), in between the words and brackets "Taxpayer Identification Number (TIN)" and the words "of the", the words and brackets "or General Registration Number (GRN)" shall be inserted;

(b) in clause (f), for the punctuation mark ";", occurring at the end, the punctuation mark "." shall be substituted;

(c) clause (g) shall be omitted.

Amendment of section 58. 16. In the principal Act, in section 58,

(i) in sub-section (1), in between the words and brackets "Taxpayer Identification Number (TIN)" and the punctuation mark ".", the words, brackets and punctuation mark "or General Registration Number (GRN), as the case may be," shall be inserted;

(ii) in sub-section (3),-

- (a) in between the words and brackets, "Taxpayer Identification Number (TIN)" and the words "to the dealer", the words and brackets "or General Registration Number (GRN)" shall be inserted;
- (b) in between the words, "shall mention the TIN" and the words "of the purchasing dealer", the word "or GRN" shall be inserted.

Amendment of section 62. 17.

In the principal Act, in section 62,--

- (i) in sub-section (1), for the word "six", occurring in between the word "within" and the word "months", the word "seven" shall be substituted.
- (ii) for sub-section (2), the following shall be substituted, namely :-

"(2) A copy of such report shall be furnished by such dealer to the Prescribed Authority along with the annual return within seven months from the end of the year to which the return relates."

Amendment of section 80. 18.

In the principal Act, in section 80,

- (i) sub-section (2) shall be omitted;
- (ii) for sub-section (3), the following shall be substituted, namely:-

"(3) Every appeal under sub-section (1) shall be filed within sixty days of the date on which the order is sought to be appealed against is communicated to the person :

Provided that the Appellate Tribunal may admit an appeal after the expiry of sixty days if he is satisfied that the Appellant had sufficient reasons for not filing the appeal within the aforesaid time, if , it is within a further period of one hundred twenty days."

Amendment of section 82. 19.

In the principal Act, for section 82, the following shall be substituted, namely:

"Revision by the Commissioner.

82.(1) The Commissioner may, on his own motion, call for and examine the records of any proceedings under this Act and if he considers that any order passed by any authority subordinate to him, is erroneous in so far as it is prejudicial to the interest of revenue, may, after giving the dealer a reasonable opportunity of being heard, pass such order as he deems fit :

Provided that the Commissioner shall not pass any order under this sub-section after the expiry of eight years from the end of the year in which the order sought to be revised was made.

- (2) In the case of any order passed by a person appointed to assist the Commissioner under sub-section (1) of section 3, not being an order to which sub-section

(1) applies, and not being an order against which an appeal under section 79 has been filed or an order in respect of which the time allowed for appeal under section 79 has not expired, the Commissioner may, either of his own motion or on an application made in the prescribed manner by the dealer or person affected by such order, call for the record of any proceeding under this Act in which any such order has been passed and may make such enquiry or cause such enquiry to be made and subject to the provisions of this Act, pass such orders thereon, not being an order prejudicial to the dealer or person to whom the order relates as he thinks fit.

(3) Every application for revision under sub-section (2) shall be filed within ninety days of the date on which the order is sought to be revised against is communicated to the dealer or the person:

Provided that the Commissioner may admit an application for revision after the expiry of ninety days if he is satisfied that the dealer or the person had sufficient reasons for not filing the appeal within the aforesaid time, if it is within a further period of one hundred eighty days.

(4) (a) When a Prescribed Authority is aggrieved by any order passed by the Appellate Authority, he may file a revision petition within ninety days from the date of receipt of such order.

(b) When a revision petition is filed by a Prescribed Authority, the Commissioner may, after examination of the order of the Appellate Authority and the records of any proceeding under the Act to which the order of the Appellate Authority relates and after making an enquiry, or causing an enquiry to be made, as he may deem necessary, pass any order reversing, modifying or upholding the order of the Appellate Authority:

Provided that Commissioner shall not pass any order prejudicial to the dealer or the person to whom the order relates without giving him a reasonable opportunity or being heard."

M. K. DEKA

COMMISSIONER AND SECRETARY TO THE GOVT. OF ASSAM
LEGISLATIVE DEPARTMENT,
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