

পঞ্জীয়িত নম্বৰ ক-১২

Registered No. A-12

অসম



ৰাজপত্ৰ

The Assam Gazette

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃৱৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY AUTHORITY

নং ৪৪ দিশপুৰ, বুধবাৰ, ১৪ এপ্ৰিল, ১৯৮৪, ২৯ চ'ত, ১৯০৬ (শক)
No. 84 Dispur, Wednesday, 18th April, 1984, 29th Chaitra,
1906 (S. E.)

GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT : LEGISLATIVE BRANCH

NOTIFICATION

The 18th April 1984

No.LGL.87/81/76.—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 1984

(Received the assent of the Governor on 16th April, 1984)

THE ASSAM PURCHASE TAX (AMENDMENT) ACT, 1984

An

Act

further to amend the Assam Purchase Tax Act, 1967

Whereas it is expedient further to amend the Assam Purchase Tax Act, 1967:

It is hereby enacted in the Thirty-fifth Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Purchase Tax (Amendment) Act, 1984.
- (2) It shall have the like extent as the principal Act.
- (3) Sections 2 and 4 of this Act shall come into force at once.

Amendment
of section 12
of Assam
Act XIX of
1967.

2. In the principal Act, in section 12, sub-section (3) shall be deleted.

Insertion of
new sections
12A, 12B
and 12C in
Assam Act
XIX of
1967.

3. In the principal Act, after section 12, the following shall be and shall be deemed to have been, inserted as sections 12A, 12B and 12C on and with effect from the date of commencement of the principal Act, namely:—

Prohibition
to collect
excess tax.

- 12A. (1) No person shall collect from any other person any sum by way of or on account of tax under this Act in respect of any goods on which no tax is payable under this Act.

- (2) No person, who is not a registered dealer under this Act and liable to pay tax thereunder in respect of any goods, shall collect from any other person any sum by way of or on account of tax under this Act and no registered dealer shall collect any amount by way of or on account of tax in excess of the amount payable by him under this Act.

Forfeiture
of excess
tax etc.

12B(1) If any person,—

(i) not being a registered dealer liable to pay tax under this Act, collects any sum by way of or on account of tax, or

(ii) being a registered dealer collects any sum by way of or on account of tax in excess of the tax payable by him, or

(iii) otherwise collects tax in contravention of the provisions of Section 12 A, any sum so collected by that person by way of or on account of tax shall be forfeited to the State Government and when any order of forfeiture is made, the Commissioner shall publish or cause to be published a notice thereof for the information of the persons concerned giving such details and in such manner as may be prescribed.

(2) Where the Commissioner has reason to believe that any person has wilfully contravened the provisions of section 12A, the Commissioner may impose upon such person a penalty of an amount not exceeding two thousand rupees or double the sum collected by such person by way of or on account of tax in contravention of the provisions of section 12A, whichever is less:

Provided that no penalty shall be imposed in respect of any such contravention which occurred on a date prior to the publication of this Act in the Official Gazette.

(3) If the Commissioner in the course of any proceeding under this Act or otherwise has reason to believe that any person has become liable to forfeiture of any sum under sub-section (1), or both forfeiture of any sum under sub-section (1) and penalty under sub-section (2) he shall serve on such person a notice in the prescribed form requiring him on a date and at a place specified in the notice to attend and show cause why forfeiture or both forfeiture and penalty of any sum as provided in sub-section (1) and sub-section (2) should not be imposed on him.

(4) The Commissioner shall thereupon hold an enquiry and shall make such order as he thinks fit.

(5) No prosecution for an offence under this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

Payment of
sum forfei-
ed etc.

12C. (1) The amount of penalty (if any) levied under section 12B, and the sum (if any) forfeited to the State Government under section 12B shall be paid by the dealer or the person liable therefor in Government treasury by such date as may be specified in a notice issued by the Commissioner for this purpose, being a date not earlier than thirty days from the date of service of the notice;

Provided that the Commissioner may, in respect of any particular dealer or person and for reasons to be recorded in writing, extend the date of payment, or allow him to pay the penalty (if any) imposed under section 12B or the sum forfeited by instalments.

(2) Any penalty imposed or sum forfeited under section 12B which remains unpaid after the date specified in the notice for payment or after the extended date of payment and any instalment not duly paid, shall be recoverable as an arrear of land revenue.

(3) Notwithstanding anything contained in this Act or in any other law for the time being in force, where any sum collected by a person by way of or on account of tax in contravention of section 12A, is forfeited to the State Government under section 12B and is recovered from him such payment or recovery shall discharge him of the liability to refund the sum to the person from whom it was so collected.

(4) A refund of any such sum or any part thereof may be claimed from the State Government by the person from whom it was realised by way of or on account of tax, provided such tax was not passed on by him in any form or manner to some other person and if such tax was so passed on to some other person the claim for refund may be made by such other person only.

(5) An application for such claim shall be made in writing in the prescribed form to the Commissioner, within one year from the date of the order of forfeiture.

(6) On receipt of an application under sub-section (5) the Commissioner shall hold such inquiry as he deems fit and if the Commissioner is satisfied that the claim is valid and admissible and that the amount so claimed as refund was actually paid in Government treasury or recovered, and no draw-back, set-off, refund or remission in respect of that amount was granted, he shall refund the sum or any part thereof, which is found due to the person concerned."

Insertion of 4. In the principal Act, after section 23, the following new section shall be inserted as section 23A, namely :—
23A in Assam Act XIX of 1967

"Special mode of recovery.

23A(1). The assessing authority may at any time or from time to time, by notice in writing (a copy of which shall be forwarded to the dealer at his last address known to the assessing authority) require any person from whom money is due or may become due to the dealer or any person who holds or may subsequently hold money for or on account

of the dealer to pay to the assessing authority, either forthwith upon the money becoming due or being held at or within the time specified in the notice (not being before the money becomes due or is held) so much of the money as is sufficient to pay the amount due by the dealer in respect of arrears of tax or other dues under this Act or the whole of the money when it is equal to or less than the arrears of tax or such other dues.

(2) The assessing authority may at any time or from time to time amend or revoke any such notice or extend the time for making any payment in pursuance of the notice.

(3) Any person making any payment in compliance with a notice under this section shall be deemed to have made the payment under the authority of the dealer and the receipt of the assessing authority shall constitute a good and sufficient discharge of the liability of such person to the extent of the amount referred to in the receipt.

(4) Any person making any payment to the dealer after receipt of the notice referred to in this section shall be personally liable to the assessing authority to the extent of the payment made or to the extent of the liability of the dealer for the amount due under this Act, whichever is less.

(5) Where any person to whom a notice under this section is sent objects to it on the ground that the sum demanded or any part thereof is not due by him to the dealer, or that he does not hold any money for or on account of the dealer, then nothing contained in this section shall be deemed to require such person to pay the sum demanded or any part thereof, to the assessing authority.

(6) Any amount which a person is required to pay to the assessing authority or for which he is personally liable to the assessing authority under this section shall, if it remains unpaid, be a charge on the properties of the said person and may be recovered as if it were an arrear of land revenue.

Explanation—(1) For the purposes of this section, the amount due to a dealer or money held for or on account of a dealer by any person shall be computed after taking into account such claims, if any, as may have fallen due for payment by such dealer to such person and as may be lawfully subsisting.

Explanation—(2) In this section "assessing authority" means any authority competent to assess the dealer under section 8."

MD. SAADULLAH,
Secretary to the Govt. of Assam,
Legislative Department.