

ASSAM ACT No.X OF 1961

THE ASSAM TAXATION (ON GOODS CARRIED BY ROAD OR ON INLAND WATER-WAYS) ACT, 1961

Received the assent of the President on the 6th April 1961

[Published in the *Assam Gazette*, Extraordinary, dated the 15th April 1961]

An
Act

to provide for the levy of a tax on certain goods carried by road or on inland water-ways in the State of Assam and to validate certain taxes imposed on goods carried by road or on inland water-ways and for certain other connected matters.

Preamble. WHEREAS it is expedient to levy a tax on certain goods carried by road or on inland water-ways and to validate taxes levied or realised and for certain other matters :

It is hereby enacted in the Twelfth Year of the Republic of India as follows :—

Short title, extent and commencement. 1. (1) This Act shall be called the Assam Taxation (on Goods Carried by Road or on Inland Water-ways) Act, 1961.

(2) It extends to the whole of Assam.

(3) It shall be deemed to have had effect as from the 24th April, 1954, and shall remain in force till the 31st March, 1962 :

Provided that the expiration shall not affect,— *

- (a) the previous operation of, or anything duly done or suffered under the Act ; or
- (b) any right, privilege, obligation or liability acquired, accrued or incurred under the Act ; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act ; or
- (d) any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid ;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the Act had not expired.

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

(1) "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 150 Kilograms.

(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 generally weighing 185 Kilograms each.

(2) "Baler" means a person who owns or possesses a pressing machine for the compression of jute into bales :

✓(3) "Boat" means a vessel or watercraft propelled or pulled or towed by hand or steam or mechanical power or any other device ;

✓(4) "Commissioner" means the Commissioner appointed under Section 6 of this Act ;

✓(5) "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 ;

✓(6) "Government" means the State Government ;

✓(7) "Jute" means the fibre of the plant known botanically as belonging to the GENUS CORCHORUS, and includes all the species of the GENUS whether known commonly as PAT. KOSTA, NALIA or by any name, and also means the plant known botanically as HIBISCUS CAUNABINUS and commonly as MESTA ;

✓(8) "Kilogram" means "Kilogram" as defined in the Standard of Weights and Measures Act, 1956 ; Act 89 of 1956.

✓(9) "Month" means any English Calendar month ;

✓(10) "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;

✓(11) "Notification" means notification published in the *Assam Gazette*;

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

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

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



Liability to tax.

3. (1) Subject to the provisions of this Act, there shall be levied a tax on (a) manufactured tea and (b) jute in bales/carrried by motor vehicle, cart, trolley, boat, animal and human agency or any other means except railways and airways in such manner and in respect of such period and at such rate as specified in the Schedule.

(2) Such tax levied on manufactured tea shall be realised from the producer and that levied on jute shall be realised from the dealer:

Provided that where tea is sold at the factory premises, the producer shall be liable for realisation of tax from the purchaser, (with effect from such date as the Government may, by notification, appoint, for the carriage of such tea as provided in this section and the producer) shall be liable for the payment of such tax notwithstanding the fact that the tea is not carried by the producer:

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

Charge of tax.

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

Determination of weight.

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

Taxing authorities.

6. (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).

Return.

7. (1) Every producer and dealer shall furnish returns of manufactured tea carried in tea containers 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 this 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 the 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.

**Licensing of
Balers and
Returns.**

* 8. (1) No baler shall operate or allow to be operated any jute pressing machine except under a license granted under this Act.

(2) Every license 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.

Assessment.

9. (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 judgement 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.

Cancellation
of assess-
ment.

10. 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.

Assessment
in cases of
evasion and
escape,

11. 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 containers or jute in bales carried, in the prescribed form and may proceed to assess or re-assess the producer or dealer and the provision 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.

Rectification. 12. (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.

Penalty for non-submission of returns and evasion of taxes.

13. (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,

(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.

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

Tax of deceased payable by representative. 15. (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.

Appeal. 16. 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 Government, by notification, to hear such appeals and the decision of the authority so empowered in any such appeal shall be final.

Revision. 17. (1) The Commissioner may, out of his own motion, call for and examine the records of any proceedings which have been taken under this Act by any officer subordinate to him and may, subject to the provisions of this Act, and after such enquiry as may be deemed necessary, revise order passed in such proceedings :

Provided that no order prejudicial to a person shall be passed under this sub-section without giving him a reasonable opportunity of being heard.

(2) The Commissioner may also on a petition filed within ninety days of the service of the order passed under Section 16 and after giving the petitioner an opportunity of being heard, pass such order as he thinks fit.

Computation of the period of limitation 18. 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.

Notice of demand. 19. When any tax or penalty or other dues is or are payable in consequence 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.

Tax when payable. 20. (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.

Other dues when payable. 21. 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.

Mode of recovery. 22. (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.

Refunds. 23. 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.

Prosecution for failure to furnish returns, &c.

24. 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.

Cognizance of offence.

25. 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.

Composition of offences.

26.(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.

Maintenance and preservation of accounts.

27. (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.

Power to order production of accounts.

28. (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.

Bar to suits
in civil
courts and
indemnity.

29. 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.

Power to
take evi-
dence.

30. 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 when trying a suit, in respect of the following matters :—

Act V
1908.

- (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 XIV
of 1860.

Delegation
of powers.

31. The Commissioner may delegate, by notification, any of his powers, except powers under Section 26, to any person appointed under Section 6 to assist him

Power to
make rules.

32. (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 ;
- (f) in making any rule the Government may direct that a breach thereof shall be punishable with fine not exceeding five hundred rupees, and when the offence is a continuing one, with a daily fine not exceeding twenty-five rupees during the continuance of the offence ; and
- (g) for any other matter necessary for giving effect to the purposes of this Act.

(3) All rules under this Section shall be laid for not less than fourteen days before the Legislative Assembly as soon as possible after they are made, and shall be subject to such modifications as the Assembly may make during the session in which they are so laid or the session immediately following.

Repeal. 33. The Assam Taxation (on goods carried by roads or inland water-ways) Act, 1954, is hereby repealed.

Validation of acts done. 34. (1) Any rules made, any liability incurred, any tax levied or realised, any returns furnished, any proceedings commenced, any notification published, any action taken or anything whatsoever done under the provisions of the Act repealed, shall be deemed to have been made, incurred, levied, realised, furnished, commenced, published, taken or done under the corresponding provisions of this Act.

Assam Act
XIII of
1954.

(2) Notwithstanding anything contained in any judgement, decree or order of any court, all taxes imposed or realised or purporting to have been imposed or realised under the Act repealed shall for all purposes be deemed to be, and to have been, validly imposed or realised and accordingly—

- (a) no suit or other proceeding shall be maintained or continued in any court against the Government or any person or authority whatsoever for the refund of any taxes so paid ; and
- (b) no court shall enforce any decree or order directing the refund of any taxes so paid.

THE SCHEDULE

(See Section 3)

Manner of carriage	Period	Rate
Manufactured tea in chests	From 1st June 1954 to 30th June 1955.	One pice per pound.
Do ...	From 1st July 1955 to 30th September 1957.	One anna per pound,
Do ...	From 1st October 1957 to 31st March 1958.	7 Naye paise per pound.
Manufactured tea in containers.	From 1st April 1958 to 31st March 1960.	7 Naye paise per pound.
Do ...	From 1st April 1960 and onwards.	15 Naye paise per Kilogram. ✓
Jute in Bales ..	From 1st June 1954 to 30th September 1957.	Eight annas per maund. ✓
Do ...	From 1st October 1957 to 31st March 1960.	50 Naye paise per maund.
Do ...	From 1st April 1960 and onwards.	1.4 Naya paise per Kilogram.

ASSAM ACT No. XI OF 1961

THE ASSAM OPIUM PROHIBITION (AMENDMENT) ACT,
1961

Received the assent of the Governor on the 29th April 1961

[Published in the *Assam Gazette*, Extraordinary, dated the 3rd May 1961]An
Act

further to amend the Assam Opium Prohibition Act, 1947.

Preamble. WHEREAS it is expedient to amend further the Assam Opium Prohibition Act, 1947, herein-^{Assam Act XXIII of 1947.} after called the Principal Act, in the manner hereinafter appearing;

It is hereby enacted in the Twelfth Year of the Republic of India as follows:—

Short title, extent and commencement.
1. (1) This Act may be called the Assam Opium Prohibition (Amendment) Act, 1961.