

ASSAM ACT No. XII OF 1990

(Received the assent of the Governor on 23rd May, 1990.)
THE ASSAM TAXATION (ON SPECIFIED LANDS) ACT, 1990

An
Act

to provide for imposition of a tax on specified land.

Preamble. Whereas it is necessary to make an addition to the revenues of Assam and, for that purpose, it is expedient to impose a tax on certain categories of land and to provide for matters connected therewith.

It is hereby enacted in the Forty-first Year of the Republic of India as follows:—

Short title, extent and commencement. 1 (1) This Act may be called the Assam Taxation (On Specified Lands) Act, 1990.

(2) It shall extend to the whole of Assam.

(3) It shall be deemed to have come into force on the first day of January, 1990.

Definitions. 2. In this Act, unless the context otherwise requires,—

(a) "annual productivity" in respect of any specified land means the productivity of such land determined in accordance with section 4;

(b) "Commissioner" means the Commissioner appointed under sub-section (1) of section 15;

(c) "green tea leaves" means the plucked and unprocessed green leaves of the plant, *Camellia Sinensis* (L) O Kuntze;

(d) "owner" in relation to any coal mine or tea estate means any person who is the immediate proprietor thereof or of any part thereof and includes, with reference to a coal mine or tea estate the possession of which or part whereof has been transferred by lease, mortgage or otherwise, the person to whom possession is so transferred so long as his right to possession subsists or, as the case may be, a liquidator, receiver, agent or any other person in charge of a coal mine or tea estate

(e) "person" means and includes—

(i) an individual;

(ii) a Hindu undivided or joint family;

(iii) a company;

(iv) a firm;

- (v) an association of persons or body of individuals whether incorporated or not;
- (vi) a department of any Government;
- (vii) a local authority; and
- (viii) every artificial juridical person, not falling within any of the preceding sub-clauses;
- (f) "prescribed" means prescribed by rules made under this Act;
- (g) "section" means a section of this Act;
- (h) "specified land" means—
 - (i) any land used or intended to be used for growing tea and for purposes ancillary thereto or any part of such land, in this Act referred to as "tea estate", or
 - (ii) any land held for the purpose of obtaining or extracting coal or any part of such land, in this Act referred to as "coal mine";
- (i) "State" means the State of Assam;
- (j) "State Government" means the Government of Assam;
- (k) "tea" means the plant *Cammellia Sinensis* (L) O Kuntze;
- (l) "tax" means the tax due or levied under section 3.

Levy of Tax 3. (1) Notwithstanding anything contained in any other law for the time being in force and subject to the provisions of this Act a tax shall be levied and collected annually on and from the commencement of this Act in respect of all specified lands in the State on the annual productivity of such land.

(2) Notwithstanding anything contained in sub-section (1) and subject to sub-sections (3) and (4) no tax shall be levied under sub-section (1) in respect of a tea estate for any year during which the total area of specified land owned or held by the owner and used for intended to be used by him during that year for growing tea and for purposes ancillary thereto does not exceed thirty Bighas.

(3) The exemption under sub-section (2) shall be admissible for a period of five years—

- (a) from the first day of January, 1990 in case of an owner who was engaged in growing tea at the commencement of this Act; and

- (b) in any other case for a period of five years from the date of commencement of production of green tea leaves by the owner.

Explanation.—For the purposes of clause (b) production of green tea leaves by an owner shall be deemed to have commenced on the date from which green tea leaves are plucked for the purpose of processing either by himself or by any other person.

(4) A Hindu undivided or joint family or firm shall be eligible for the exemption under sub-section (2) only if the aggregate area of all specified lands owned or held by each member of the family or firm and used or intended to be used jointly by the said family or firm for growing tea and purposes ancillary thereto does not exceed thirty Bighas.

Determina-
tion of annu-
al produc-
tivity.

4. The annual productivity of any land in respect of any year shall be determined by aggregating:—

- (i) in case of a tea estate, the quantity in Kilogrammes of green tea leaves produced in the tea estate during the year, and
- (ii) in case of a coal mine, the quantity in Metric Tonnes of coal extracted or obtained from such mine during the year;

and after deducting therefrom such quantity of green tea leaves or, as the case may be, coal as is required to be deducted by virtue of any provision of this Act or rules thereunder:

Provided that in determining the annual productivity of any land under this section a fraction of Kilogramme or as the case may be, Metric Tonne shall be ignored.

Rate of tax

5. The rate of the tax under section 3 shall be as follows:—

- (i) in case of a tea estate, fifty paise for every Kilogramme of the annual productivity of the tea estate; and
- (ii) in case of a coal mine, one hundred rupees for every Metric Tonne of the annual productivity of the coal mine.

Tax by
whom to be
paid and
manner of
payment.

6. The tax in respect of any specified land shall be paid by the owner thereof in such manner (including payment in advance) for such period and by such date as may be prescribed.

Registration
owner.

7. Every owner shall get himself registered with such authority and in such manner as may be prescribed.

Return of tax. 8. Every owner shall file a return showing the amount of tax payable by him in such form, for such period, by such date and to such authority as may be prescribed.

Assessment of tax. 9. The tax shall be assessed by such authority and in such manner as may be prescribed and, if the return furnished under section 8 is not accepted, the owner shall be given a reasonable opportunity of being heard before making such assessment.

Appeal, revision etc. 10. Appeal, revision, review and reference, as the case may be, from an order of assessment or other orders relating to the tax shall lie to such authority and in such manner as may be prescribed.

Recovery and refund of tax. 11. Recovery of any tax or penalty assessed under the Act or refund of any amount of tax found after assessment to have been paid in excess, shall be made in the manner prescribed.

Penalty for non-payment of tax assessed. 12. (1) If any owner defaults in payment of any tax assessed under section 9 he shall be liable to pay by way of penalty in addition to the tax assessed an amount not exceeding the amount of tax assessed and remaining unpaid.

(2) The penalty under sub-section (1) may be levied by such authority and in such manner as may be prescribed.

Explanation:—An owner shall be deemed to be in default for the purposes of this section if he fails to pay the tax assessed or any part thereof by the prescribed date.

Offences 13. If any owner fails without reasonable cause to get himself registered under section 7 or in any way evades or attempts to evade payment of tax payable by him under this Act, he shall, on conviction before a Magistrate and in addition to any tax or penalty or both that may be due from him, be punishable with simple imprisonment for a term which may extend to one year or with fine of one thousand rupees or with a further fine which may extend to one hundred rupees for every day during which such offence continues after first conviction :

Provided that no Court shall take cognizance of an offence punishable under this section except with the previous sanction of the prescribed authority and no Court inferior to that of a Magistrate of the first class shall try such offence.

Composition of offences. 14. (1) Subject to such conditions as may be prescribed, the prescribed authority may, either before or after institution of criminal proceedings under this Act except from the person who has committed or is reasonably suspected of having committed an offence under this Act or the rules made thereunder, by way of composition of such offence—

- (a) where the offence consists of evasion or attempted evasion of tax, in addition to the tax, a sum of money not exceeding double the amount of the tax; and
- (b) in any other case a sum of money not exceeding one thousand rupees in addition to the tax.

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

Taxing and other authorities.

15. (1) The State Government may, for carrying out the purposes of this Act, appoint a Commissioner and such other persons to assist him as it thinks fit.

(2) The persons appointed under sub-section (1) shall exercise such powers and perform such duties and functions as may be prescribed.

(3) The Commissioner shall exercise jurisdiction throughout the State and persons appointed under sub-section (1) to assist him shall exercise their powers within such areas or, as the case may be, in respect of such persons or such cases as the Commissioner may specify by notification made in this behalf.

(4) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

Delegation of powers.

16. The powers, functions and duties of the Commissioner under this Act or the rules made thereunder may be delegated by him by notification to any person appointed under sub-section (1) of section 15 to assist him.

Power to make rules.

17. (1) The State Government may, by notification in the official Gazette, make rules for securing payment of the tax and generally for the purpose of carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing powers such rules may provide for all or any of the matters which may be or are required to be prescribed.

(3) In making rules the State 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.

(4) The fine provided under sub-section (3) may be levied by such authority and shall be payable and recoverable in such manner as may be prescribed.

(5) The powers to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication.

Power to
remove
difficulties.

18. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by general or special order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

K. LASKAR,
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Legislative Department.