



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 22nd March, 2018

No. LGL.181/2015/11.— The following Act of the Assam Legislative Assembly which received the assent of the Governor on 16th March, 2018 is hereby published for general information.

ASSAM ACT NO. IV OF 2018

(Received the assent of the Governor on 16th March, 2018)

THE ASSAM EXCISE (AMENDMENT) ACT, 2018

AN ACT

further to amend the Assam Excise Act, 2000

Preamble

Whereas it is expedient further to amend the Assam Excise Act, 2000, hereinafter referred to as the principal Act, in the manner hereinafter appearing ;

Assam Act
No. XIV of
2000

It is hereby enacted in the Sixty-ninth Year of the Republic of India as follows :-

Short title, extent and commencement

1.(1) This Act may be called the Assam Excise (Amendment) Act, 2018

(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 , after clause (y), the following new clause (z), shall be inserted, namely :-

“ (z) ‘public place’ means any place intended for use by or accessible to the public and includes any conveyance running or parked on public roads or parking area;”

Substitution of section 36

3. In the principal Act, for the existing section 36, the following shall be substituted, namely :-

“36. Recovery of dues.- (1) All excise revenue, payable to the Government under this Act, shall be recovered from the person liable to pay the same or his legal representatives/ successors or from his surety or his agent as if they were the arrears of land revenue or in the manner provided for the recovery of public demands by any law for the time being in force.

(2) In the event of default in payment of excise revenue or otherwise, by any person licensed under this Act, his manufactory, warehouse, shop or premises and all fittings, apparatus, stocks of liquor or material for the manufacture of the same, held therein shall be liable to be attached towards

any claim for excise revenue or in respect of any loss incurred by the Government through such default and be sold to satisfy such claim which shall be the first charge upon the proceeds of such sale."

**Substitution of
section 49**

4. In the principal Act, for the existing section 49, the following shall be substituted, namely :-

"49. Bail.- (1) Subject to sub-section (2) of this section, the provisions of the Code of Criminal Procedure, 1973 shall apply to bail in respect of the offences under this Act.

Central
Act 2 of
1974

(2) Except for the offences punishable under sub-section (1) of section 53, section 54 and section 55, which shall be non-bailable, all other offences under this Act shall be bailable within the meaning of the said Code.

(3) All Excise Officers and Police Officers, not below such rank as the State Government may prescribe, shall be empowered to accept bail in respect of bailable offences."

**Amendment of
section 53**

5. In the principal Act, in section 53, for the existing provisions of sub-section (1), the following shall be substituted, namely :-

"53. Penalty for unlawful import, export, transport manufacture, possession, sale etc.- (1) Whoever, in contravention of the provision of this Act or of any rule or order made or notification issued or of any licence, permit or pass, granted under this Act, -

- (a) manufactures, imports, exports, transports, removes, possesses or sells any intoxicant other than tari and pachwai; or
- (b) constructs or works, any distillery or brewery ; or
- (c) bottles any liquor other than tari and pachwai for purposes of sale; or

(d) uses, keeps or has in his possession any material, still, utensil, implement or apparatus, whatsoever, for the purpose of manufacturing any intoxicant other than tari and pachwai; or

(e) possesses any material or label of any brand of liquor either with or without the Government hologram or hologram of any other State or any other thing in which liquor can be packed or any apparatus or implement or machine for the purpose of packing any liquor;

shall be punished with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than five thousand rupees but which may extend to one lakh rupees and the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to one year, and such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced."

**Substitution of
section 54**

6. In the principal Act, for the existing section 54, the following shall be substituted, namely:-

"54. Unlawful possession in certain cases. Whoever without lawful authority has in his possession any quantity of any intoxicant knowing the same to have been unlawfully imported, exported, transported or manufactured, and knowing that the prescribed duty has not been paid thereon, shall be punished with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees and the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to one year and such imprisonment shall be in addition to any other imprisonment to which he may have been sentenced."

Substitution of section 55

7. In the principal Act, for the existing section 55, the following shall be substituted, namely:-

“55. Penalty for altering or attempting to alter any denatured spirit that may be used for human consumption.-

If any person alters or attempts to alter any denatured spirit with the intention that such spirit may be used for human consumption whether as a beverage or internally as medicine or in any other way whatsoever, by any method whatsoever, or has in his possession any spirit in respect of which he knows or has reason to believe that any such alteration or attempt has been made, he shall be punished with imprisonment for a term which shall not be less than one year but which may extend to five years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees and the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to one year, and such imprisonment shall be addition to any other imprisonment to which he may have been sentenced.”

Amendment of section 58

8. In the principal Act, in section 58, in sub-section (b), after the words and punctuation mark “permit or pass,”, the following shall be substituted, namely:-

“shall be punished in case of (a) with fine which shall not be less than ten thousand rupees but which may extend to fifty thousand rupees and in case (b) with fine which shall not be less than fifty thousand rupees but which may extend to five lakh rupees and the convicting Magistrate shall direct the offender to be imprisoned in default of payment of fine for a term which may extend to six months.”

Insertion of new section 58-A

9. In the principal Act, after section 58, the following new section 58-A shall be inserted, namely:-

“58-A. Penalty for non-payment of duty or fee.- If any person or any licence holder under this Act fails to pay any

duty, fee or any other levy due to the Government, which under this Act he is liable to pay and for which he has received due notice from the State Government or the Excise Commissioner or a Collector, shall be punished with imprisonment for a term which may extend to three years and with fine which shall not be less than the amount due from him but which may extend to three hundred percent of the duty, fee or other levies due from him."

Insertion of new sections 61-A and 61-B

10. In the principal Act, after section 61, the following new sections 61-A and 61-B shall be inserted, namely:-

"61-A. Prohibition of consumption of liquor or intoxicant in public place.-No person shall consume Liquor or any intoxicant in a public place (as defined under section 2 (z)).

"61-B. Penalty for consumption of liquor in public places.-Whoever, in contravention of this Act or the rules, notification or order made thereunder,-

- (a) consumes liquor in a public place;
- (b) consumes liquor in a public place and creates nuisance;
- (c) permits drunkenness or allows assembly of unsocial elements on the licensed premises of liquor establishments; shall be punishable:-
 - (i) in case of an offence falling under clause (a), with fine which may extend to five thousand rupees;
 - (ii) in case of an offence falling under clause (b) , with imprisonment for a term which may extend to three months and with fine which may extend to ten thousand rupees; and
 - (iii) in case of an offence falling under clause (c), with imprisonment for a term which may extend to six months and with fine which may extend to fifty thousand rupees."

Insertion of new section 64-A

11. In the principal Act, after section 64, the following new section 64-A shall be inserted, namely:-

"64-A. Commission of offence by companies.- (1) If the person committing an offence under this Act is a company,

the company as well as every person in charge of and responsible to the company for the conduct of its business at the time of the commission of the offence, shall be deemed to be guilty of offence, and shall be liable to be proceeded against and punished accordingly:

Provided that where a company has different establishments or branches of different units in any establishment or branch, the Chief Executive Officer and the person in charge of such establishment, branch, unit nominated by the company as responsible for the conduct of the business shall be liable for contravention in respect of such establishment, branch or unit.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or that the commission of the offence is attributable to any negligence on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall be liable to be proceeded against and punished accordingly.

Explanation : for the purpose of this section,-

"Company" means a body corporate registered under the Companies Act, 2013 and includes a firm including a partnership firm, whether registered under Indian Partnership Act, 1932 or other association of individuals registered under the Co-operative Societies Act, 1912 and the Societies Registration Act, 1860; and "director", in relation to firm, means a partner in the firm."

Central Act
No.18 of 2013
Act NO.IX of
1932
Act No.2 of
1912
Act No.21
of 1860

Amendment of section 69

12. In the principal Act, in section 69, in sub-section (1), for the existing clauses (a) and (b), the following shall be substituted, namely:-

"(a) under section 53, 54, 55, 61 or 61-B except on his own knowledge or suspicion or on the complaint or report of an Excise Officer;

(b) under section 56, 57, 58, 58-A or 64 except on the complaint or report of a Collector or other officer empowered under section 42, sub-section (2) to investigate the case; or"

Substitution of section 76

13. In the principal Act, for the existing section 76, the following shall be substituted, namely:-

"76. Power to compound offences.- (1) The offences under this Act, except under sub-section (1) of section 53, section 54 and section 55 shall be compoundable.

(2) Any person or licence holder who is reasonably suspected of having committed an offence, except under section 53 (1), 54 and 55 of this Act, may apply to the Excise Commissioner or a Collector for compounding of the offence, before he is convicted.

(3) On receipt of such application, the Excise Commissioner or Collector, having regard to the circumstances of the case, may in his discretion order for compounding of the offence on payment of a sum of money by way of compounding fee for the offence on such terms and conditions as he deems fit.

(4) On payment by the person of such sum of money, such person, if in custody, shall be set at liberty and no further proceeding shall be instituted and continued against such person in respect of the offence compounded, in any criminal court:

Provided that the sum of money fixed as compounding fee or compensation by the Excise Commissioner or Collector, under this section shall not be less than three times and not be more than five times the duty involved or value of intoxicant, apparatus, vehicle and other material, whichever is higher:

Provided further that where any intoxicant, apparatus, vehicle or other material is seized, the same shall not be released but shall be disposed of in such manner as may be prescribed.

(5) In case the license holder commits the same offence for the second time, his compounding fee will be not less than double of the amount paid for his same offence committed earlier".

S. M. BUZAR BARUAH,

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