

ASSAM ACT XXVI OF 1972

(Received the assent of the Governor on the 12th October, 1972)

THE ASSAM AGRICULTURAL INCOME-TAX (AMENDMENT) ACT, 1972

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An

Act

further to amend the Assam Agricultural Income-tax Act, 1939

Preamble. Whereas it is expedient further to amend the Assam Act IX of 1939. Assam Agricultural Income-Tax Act, 1939, hereinafter called the principal Act, in the manner hereinafter appearing ;

It is hereby enacted in the Twenty-third Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Assam Agricultural Income-Tax (Amendment) Act, 1972.

(2) It shall have the like extent as the principal Act.

(3) It shall come into force at once.

Amendment of section 2 of Assam Act IX of 1939.

2. In section 2 of the principal Act, after Clause (f), the following shall be inserted as clause (ff), namely:—

“(ff) Assistant Commissioner of Taxes (Appeals), means a person appointed to be an Assistant Commissioner of Taxes (Appeals), under sub-section (2) of section 18.”

Amendment of section 18 of Assam Act IX of 1939.

3. For section 18 of the principal Act, the following shall be substituted, namely:—

“Income-tax authorities.

18. (1) There shall be the following classes of Income-tax authorities for the purposes of this Act, namely:—

- (a) Commissioner of Taxes.
- (b) Deputy Commissioner of Taxes.
- (c) Assistant Commissioner of Taxes (Appeals).

(d) Assistant Commissioner of Taxes.

(e) Agricultural Income-tax Officer.

(f) Superintendent of Taxes.

(g) All Assam Investigation Officer.

(h) Inspector of Taxes.

(i) Agricultural Income-tax Inspector.

(2) The State Government may appoint one Commissioner of Taxes and as many Deputy Commissioners of Taxes, Assistant Commissioners of Taxes (Appeals), Assistant Commissioners of Taxes, Agricultural Income-tax Officers, Superintendents of Taxes, All Assam Investigation Officers, Inspectors of Taxes and Agricultural Income-tax Inspectors as it thinks fit.

(3) The Commissioner of Taxes shall perform his functions in respect of whole of the State of Assam and the Deputy Commissioners of Taxes, Assistant Commissioners of Taxes (Appeals), Assistant Commissioners of Taxes, Agricultural Income-tax Officers, Superintendents of Taxes, All Assam Investigation Officers shall perform their functions in respect of such areas or of such persons or classes of persons or of such incomes or classes of income or of such cases or classes of cases as the Commissioner of Taxes may by notification in the Official Gazette direct."

Amendment
of section
24 of Assam
Act IX of
1939.

4. For section 24 of the principal Act, the following shall be substituted, namely:—

"24. (1) Any person aggrieved by any order passed under this Act by any authority not being an order passed under this section, may appeal to the Assistant Commissioner of Taxes (Appeals), against such order within thirty days from the date of service of such order along with a certified copy thereof:

Provided that the authority before whom the appeal is filed may admit the appeal after the expiration of thirty days, if he is satisfied that for reasons beyond control of the appellant or for any other sufficient cause it could not be filed within the time.

(2) Every appeal under this section shall be presented in the prescribed form and shall be verified in the prescribed manner.

(3) The appellate authority shall fix a day and place for hearing of the appeal, and may from time to time adjourn the hearing and make such further enquiry as he thinks fit.

(4) In disposing of the appeal under sub-section (1) against an order of assessment or penalty, the Assistant Commissioner of Taxes (Appeals) may,—

(a) confirm, reduce, enhance or annul the assessment,

(b) set aside the assessment and direct a fresh assessment after such enquiry as may be ordered, or

(c) confirm, reduce or annul the order of penalty.”

Amend-
ment of
section 25
of Assam
Act IX of
1939.

5. Section 25 of the principal Act shall be deleted.

Amendment
of section 27
of Assam
Act IX of
1939.

6. For section 27 of the principal Act, the following shall be substituted, namely:—

“27. (1) The Commissioner may call for and examine the records of any proceedings under this Act, if he considers that any order passed therein by any authority other than himself is erroneous in so far as it is prejudicial to the interest of revenue, and he may, after giving the assessee an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such order thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment or cancelling the assessment and directing a fresh assessment.

(2) In the case of any order other than an order to which sub-section (1) applies passed under this Act by any authority other than himself, the Commissioner may of his own motion, and in the case of an order passed under section 24, subject to such rules as may be prescribed, on a petition by an assessee for revision, call for the records of any proceedings 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, may pass such order thereon, not being an order prejudicial to the assessee, as he thinks fit:

Provided that the Commissioner may dispense with the enquiry required to be made under this sub-section, if he, for reasons to be recorded in writing, considers such enquiry to be unnecessary.

(3) In the case of a petition for revision under sub-section (2) by an assessee, the petition must be made within ninety days from the date on which the order in question was communicated to him or the date on which he otherwise comes to know of it, whichever is earlier:

Provided that the Commissioner may admit the petition after the expiration of the period of ninety days, if he is satisfied that for reasons beyond the control of the petitioner or for any other sufficient cause, it could not be filed within the time.

*Explanation:—*An order by the Commissioner of Taxes declining to interfere shall for the purpose of this section, be deemed not to be an order prejudicial to the assessee.

(4) The Commissioner shall not revise any order under this section in the following cases.—

(a) On petition under sub-section (2) where an appeal against the order lies under section 26 and the assessee has not waived his right of such appeal, or

(b) Where the order is pending on appeal under section 26.

Provisions relating to appeals.

7. Notwithstanding anything contained in any law, as from the date of commencement of the provisions of this Act, all appeals pending on the date on which this Act comes into force shall stand transferred to the Assistant Commissioners of Taxes (Appeals) as may be directed in writing by the Commissioner of Taxes and shall be disposed of by the said authorities as if the appeals were preferred before them under section 24.

Amendment of section 50 of Asam Act IX of 1939.

8. In section 50 of the principal Act, in sub-section (2), in clause 'g' between the figures "28" and the punctuation ":", the following shall be inserted, namely:—

"and fees for reference, revision, or appeal petitions, supply of certified copies of orders and other matters."