

ASSAM ACT XVII OF 1971

THE ASSAM PROFESSIONS, TRADES, CALLINGS AND
EMPLOYMENTS TAXATION (AMENDMENT) ACT, 1971

(As passed by the Assembly)

(Received the assent of the Governor on the 28th June, 1971)[Published in the *Assam Gazette Extraordinary*, dated the 2nd July 1971]**An
Act***further to amend the Assam Professions Trades, Callings and Employments
Taxation Act, 1947.*

Preamble. Whereas it is expedient further to amend the Assam Act VI of 1947 Assam Professions, Trades, Callings and Employments Taxation Act, 1947, hereinafter called the principal Act, in the manner hereinafter appearing;

It is hereby enacted in the Twenty-second year of the Republic of India as follows—

Short title, extent and commencement. 1. (1) This Act may be called the Assam Professions, Trades, Callings and Employments Taxation (Amendment) Act, 1971.

(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 of Assam Act VI of 1947.

2. In section 2 of the principal Act:—

(1) after clause (aa), the following shall be inserted as clause (aaa), namely:—

“(aaa)” assessee “means a person by whom tax is payable under the provisions of this Act.”

(2) for clause (c), the following shall be substituted, namely:—

“(c)” previous year “means the twelve months ending on the 31st of March next preceding the year for which assessment is to be made or if the accounts of the assessee have been

made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, or if the accounts of an assessee are made up to a date ending on the last date of Bengali or Ramnavami year beyond the said 31st day of March then at the option of the assessee the year ending on the day to which his accounts have been so made up:

Provided that if this option has once been exercised by the assessee, it shall not again be exercised except with the consent of the Commissioner or such other officer as may be authorised by him in this behalf, and upon such conditions as the Commissioner or such other officer may think fit."

Amendment
of section following
19 of Assam
Act VI of
1947.

3. For section 10 of the principal Act, the following shall be substituted, namely:—

"10.(1) Any assessee objecting to an order passed under this Act by any officer other than the Commissioner or the Assistant Commissioner mentioned in section 6 of this Act, may, within thirty days from the date of service of such order appeal to the Assistant Commissioner against such order in the manner prescribed:

Provided that no appeal against an order of assessment or penalty shall be entertained by the Assistant Commissioner unless he is satisfied that the amount of tax assessed or penalty levied, if not otherwise directed by him, has been paid:

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

(2) Every appeal under sub-section (1) shall be presented in the prescribed form and shall be verified in the prescribed manner.

(3) The Assistant Commissioner shall fix a day and place for hearing of the appeal, and may from time to time adjourn the hearing and make or cause to be made, such further enquiry as may be deemed necessary.

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

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

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

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

Amendment of section 10A of Assam Act VI of 1947.

4. For section 10A of the principal Act, the following shall be substituted, namely:—

“10A (1) The Commissioner may call for and examine the record of any proceeding under the Act, and if he considers that any order passed therein by any officer other than himself, is erroneous in so far as it is prejudicial to the interest of revenue, 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 orders 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 officer other than himself, the Commissioner may of his own motion, and in the case of an order passed under section 10, also, subject to such rules as may be prescribed, on a petition by an assessee for revision, call for the record of any proceeding 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, considers such enquiry to be unnecessary.

(3) In the case of a petition for revision under sub-section (2) by an assessee, the petition shall 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 before whom the petition is filed may admit it 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 time.

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

Amendment of section 13 of Assam Act VI of 1947.

5. In section 13 of the principal Act, the proviso to sub-section (1) shall be deleted.

EXPLANATORY NOTES

Clause 2.

Clause 2 is intended to relieve the assessee who observe for the purpose of accounting any year other than the financial year of the hardship of having to prepare their accounts of profits or loss for the purpose of the Act, financial year-wise. The proposed changes will not in any way affect revenues.

Clauses 3 and 4.

Under the existing provisions of the law, petitions for revision can be filed against all orders whether passed on appeal or otherwise with the result that innumerable petitions for revision are filed before the Commissioner in order to circumvent the process of appeal and to delay payment of due taxes, thus restricting the opportunity for the important functionary to ensure adequate supervision of the work of his subordinates.

Clause 3 is intended to make all orders appealable and clause 4 is intended to restrict petitions for revision.

Clause 5.

The change proposed in this clause is consequential to the change sought to be brought about by clause 3.