

The 26th October 1967

**No.LJL/16/67/11.**—The following Act of the Assam Legislative Assembly which received the assent of the President is hereby published for general information.

**ASSAM ACT XIX OF 1967**

**(Received the assent of the President on the 21st October, 1967)**

**THE ASSAM PURCHASE TAX, ACT, 1967**

[Published in the *Assam Gazette*, Extraordinary, dated the 26th October, 1967]

**An  
Act**

**to provide for the levy of tax on the purchase of raw jute and raw hides and skins in Assam.**

**Preamble** Whereas it is necessary to make an addition to the revenue of Assam and for that purpose to impose a tax on purchases of raw jute and raw hides and skins in Assam ;

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

**Short title,  
extent and  
commence-  
ment.**

1. (1) This Act may be called the Assam Purchase Tax Act, 1967.
- (2) It extends to the whole of Assam.
- (3) It shall come into force on such date as the State Government may, by notification in the official Gazette, appoint.

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

- (1) "Board" means the Assam Board of Revenue constituted under the Assam Board of Revenue Act, 1962; Assam Act  
XXI  
1962.
- (2) "Commissioner" means the Commissioner of Taxes appointed under section 4;
- (3) "Dealer" means an occupier of a jute mill or a purchaser.

**Explanation.**—The manager or agent of a dealer who resides outside the State and carries on the business of buying raw jute or raw hides and skins in the State shall, in respect of such business, be deemed to be a dealer for the purposes of this Act;

(4) "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 known as "MESTA";

(5) "jute-mill" means a factory as defined in, or declared to be a factory under the Factories Act, 1948 which is engaged wholly or in part in the manufacture of jute products; Act 63 of  
1948.

(6) "occupier of a jute-mill" means the person who has ultimate control over the affairs of the jute-mill:

Provided that where the affairs of a jute-mill are entrusted to a managing agent, such agent shall be deemed to be the occupier of the jute mill;

(7) "prescribed" means prescribed by rules made under this Act;

(8) "person" means any individual, or association or body of individuals, and includes a Department of Government, a Hindu undivided or joint family, a firm and a company, whether incorporated or not;

(9) "quintal" means the weight equivalent to one hundred Kilograms as defined in the Standard of Weights and Measures Act, 1956; Act 89 of  
1956.

(10) "quarter" means a period of three months ending on 31st March, 30th June, 30th September or 31st December in any year;

(11) "raw jute" means the fibre of jute which has not been subjected to any process of spinning or weaving and includes jute cuttings, whether loose or packed in drums or bales;

(12) "purchaser" means any person who purchases raw jute or raw hides and skins and supplies it himself or by an agent to any person including himself outside the State;

(13) "State" means the State of Assam;

(14) "Section" means a section of this Act;

(15) "Taxable goods" means such goods as are specified in sub-section (1) of section 3 of the Act; and

(16) "Year" means the financial year;

(17) "Return period" means the period prescribed under section 7(1).

Levy of Tax. 3. (1) Except as otherwise expressly provided in this Act, there shall be levied and collected from every dealer a tax on the purchases of Raw Jute and Raw Hides and Skins at rates as may be specified in the annual Assam Finance Acts:

Provided that for the year ending on the 31st day of March, 1968, the rates shall be as specified below:—

(a) Raw Jute ... .. Rupees five per quintal.

(b) Raw Hides and Skins ... .. Rupees three per quintal.

Provided further that the State Government may, by notification in the official Gazette, grant a rebate not exceeding one per centum of the tax subject to such conditions as may be specified therein.

(2) No tax shall be leviable under this Act on the taxable goods in respect of which such tax has already been paid:

Provided that the burden of proving that such tax has already been paid, shall be upon the person who claims the benefit of this sub-section.

Taxing authorities. 4. (1) The State Government may, for carrying out the purposes of this Act, appoint a Commissioner of Taxes, and such other persons to assist him as they think fit.

(2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred and perform such duties as may be required by, or under this Act.

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

Registration. 5. (1) No dealer shall, while being liable to pay tax under the provisions of this Act, carry on business as a dealer unless he has been registered and possesses a certificate of registration.

(2) Every dealer required by sub-section (1) to be registered shall apply for registration to the Commissioner in the prescribed manner, and obtain a certificate of registration.

(3) On receipt of an application under sub-section (2), the Commissioner shall, if he is satisfied after such enquiry as may be deemed necessary that the application is in order, register the applicant.

(4) The Commissioner may, in addition to taking any other action under the provisions of this Act, require any dealer who, in his opinion, is liable to registration but has not made an application in this behalf, to apply for registration and register him. The Commissioner shall register a dealer who fails to apply for registration within a specified time:

Provided that no action under this sub-section shall be taken unless the Commissioner has given notice to the dealer of his intention so to do and has allowed a reasonable opportunity of being heard.

(5) The Commissioner shall register any dealer who has been convicted under section 26 or has paid composition money under section 29 in respect of any contravention of sub-section (1) of this section.

(6) Registration made under sub-section (4) or sub-section (5), shall take effect as if these had been made on the dealer's application under sub-section (2).

Certificate of registration. 6. (1) A dealer registered under section 5 shall be granted a certificate of registration in such form as may be prescribed.

(2) The Commissioner may, on petition or otherwise, cancel at any time any certificate of registration if he is satisfied that—

- (a) the business in respect of which the certificate was issued has been discontinued or transferred, or
- (b) the liability to pay tax in respect of such business has ceased under this Act.

7. (1) Every registered dealer shall furnish returns of taxable goods purchased in such forms, in such period and intervals and to such authority as may be prescribed.

(2) In case of any other dealer who, in the opinion of the Commissioner, is liable to pay tax for any return period or part thereof, the Commissioner may serve in that year a notice in the prescribed form upon him requiring him to furnish a return of taxable goods purchased and such dealer shall thereupon furnish the return within the period and to the authority mentioned in the notice.

(3) If any 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:

Provided that no return submitted under this section shall be valid unless it is accompanied by a treasury receipt showing payment of the tax due as provided in sub-section (2) or sub-section (3), as the case may be, of section 20.

**Assessment.** 8. (1) If the Commissioner is satisfied that a return furnished by a dealer under section 7 in respect of any quarter is correct and complete, he shall, by an order in writing, assess the 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 dealer a notice, requiring him, on the date and the hour and place specified 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 specified in the notice, under sub-section (2) or as soon afterwards as may be, the Commissioner, after hearing such evidence as the dealer may produce and such other evidence as the Commissioner may require, shall, by an order in writing, assess the dealer and determine the tax payable by him on the basis of such assessment.

(4) If a dealer fails to make a return as required by sub-section (1) or sub-section (2) of section 7, as the case may be, or having made the return, fails to comply with all 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 judgment the dealer, and determine the tax payable by him on the basis of such assessment :

Provided that before making the assessment, the Commissioner may allow the 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 assessment.** 9. Where a dealer, in the case of an assessment completed under sub-section (4) of section 8, satisfies the Commissioner within one month from the date of issue 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 7 or sub-section (2) of section 8, 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 may cancel the assessment and make a fresh assessment in accordance with the provisions of section 8.

Assessment  
in cases of  
evasion and  
escape.

10. (1) If in consequence of definite information which has come into his possession, the Commissioner is satisfied that any dealer, though liable to pay tax in respect of any quarter, has nevertheless failed to apply for registration and to make the return required of him, or that any taxable goods chargeable to tax have escaped assessment in any quarter or have been under assessed, the Commissioner may, at any time within eight years of the expiry of that quarter, serve on the dealer liable to pay tax a notice, requiring him to furnish within such period as may be mentioned in the notice, a return of taxable goods purchased in the prescribed form and may proceed to assess or re-assess the dealer and the provisions 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.

(2) The Commissioner may authorise any person appointed under section 4 to assist him in investigating any case or points in a case at any stage and to make a report thereon to the Commissioner or any prescribed authority in respect of all or any of the assessments made in relation to the case in order to prevent the evasion of tax. After considering the report of the investigating officer the Commissioner may proceed to take action under sub-section (1) besides initiating any other action under this Act against the dealer concerned.

Rectifica-  
tion of  
assessment.

11. (1) The authority which made an assessment or passed an order on appeal or revision in respect thereof may, at any time within three years from the date of such assessment or order and of his 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 a dealer :

Provided that no such rectification shall be made having the effect of enhancing the assessment unless the authority concerned has given notice to the dealer 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 dealer.

(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-sub-  
mission of  
return and  
evasion of  
taxes.

12. (1) If the Commissioner, in the course of any proceeding under this Act, is satisfied that any dealer—

(a) has, without reasonable cause, failed to furnish the return which he was required to furnish under section 7 or section 10 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 8 ; or

(c) has concealed the particulars of taxable goods purchased or deliberately furnished inaccurate particulars of such purchases ; or

(d) has evaded in any way the liability to pay tax, he may direct that such dealer shall pay by way of penalty, in addition to the tax payable by him, a sum not exceeding one and half of that amount.

(2) No order under sub-section (1) shall be made unless the dealer 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 the previous sanction of the Commissioner.

Assessment  
not to bar  
prosecutions  
or penalties.

13. 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 de-  
ceased pay-  
able by re-  
presentative.

14.(1) Where a 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, to the extent to which it is capable of meeting the charge, the tax assessed as payable by such dealer.

(2) Where a dealer dies without having furnished the return required by sections 7 or 10 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.

**Tax when payable by transferee.** 15. When the business or stock of a registered dealer passes on to any person or persons, whether by sale, inheritance, gift, possessions or otherwise, the liability to pay any tax payable in respect of any purchase of taxable goods and remaining unpaid at the time of such passing on shall be jointly and severally on the dealer and such person or persons and such person or persons shall, within 30 days of such passing on, apply for registration under section 5.

**Assessment of dealers likely to transfer assets to avoid tax.** 16.(1) Notwithstanding anything contained in this Act, if it appears to the Commissioner during any current return period that any dealer is likely to change, sell, transfer, dispose of or otherwise part with any of his assets with a view to avoiding payment of any liability under the provisions of this Act the purchases of taxable goods of such dealer for the period from the expiry of the previous return period to the date when the Commissioner commences proceedings under this section shall be chargeable to tax in that period.

(2) For the purpose of making an assessment under sub-section (1), the Commissioner may serve a notice upon such dealer requiring him to furnish, within such period as may be specified in the notice, a return in the manner and form in which a return under section 7 is furnished.

**Liability of Agent non-residents.** 17. Where the business in respect of which tax is payable under this Act is owned by a non-resident person, the tax shall be levied upon and recoverable from the agent of such non-resident person in like manner and to the same extent as it would be leviable upon and recoverable from the owner if he were resident in the State and conducting the business therein; and all the provisions of this Act shall apply accordingly.

**Liability of discontinued firm or association.** 18. Where the business carried on by a firm or an association of persons, other than a company as defined in the Indian Companies Act, 1956, and in respect of which tax is payable under this Act, is discontinued or the association of persons is dissolved, the tax shall be levied upon and recovered from, jointly and severally, every person who, at the time of such discontinuance or dissolution, was a partner of such firm or member of such association; and all the provisions of this Act shall apply accordingly.

**Notice of demand.** 19. When any tax or penalty or other dues is or are payable in consequence of any order passed under or in pursuance 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 specifying 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 registered dealer furnishes the return 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 return, and shall furnish along with the return a receipt from such treasury showing payment of such tax.

(3) Where a revised return is submitted by a registered dealer under sub-section (3) 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 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 payment already made under sub-sections (2) and (3), or
- (b) where no payment has been made, shall be paid by the dealer by such date as may be specified, in the notice of demand and, where no such date is specified, it shall be paid within thirty days from the date of service of the notice.

**Interest payable by dealer.** 21. (1) If any registered dealer does not pay into a Government treasury the full amount of tax due from him under this Act on the basis of the return or his account books within the prescribed date, simple interest at the rate of six per cent per annum from the first day of the month next following the said date shall be payable by the dealer upon the amount by which the tax so paid falls short of the amount of tax payable as per his return or account books.

If such amount of tax and interest are not paid within thirty days from the date from which the interest is due, simple interest upto a maximum of 24 per cent shall be payable as may be prescribed.

(2) Where on making the assessment, the Commissioner finds that a dealer has not maintained the account books properly and thereby he has suppressed the purchase of

goods in any period, the Commissioner may direct him to pay interest as prescribed in sub-section (1). If the amount of tax payable under the Act has been reduced in appeal or revision, the interest may be calculated on the reduced amount.

(3) If any registered dealer does not pay into the Government treasury the amount of tax within the date as provided in sub-section (4) of section 20 or any instalment of the tax within the extended date as per proviso to sub-section (1) of section 23 of the Act, interest as provided in sub-section (1) shall be payable from the first day of the month next following the said date by the dealer upon the amount by which the tax, if any, paid falls short of the amount of tax payable under the Act.

**Other dues when payable.** 22. Any dues, other than the amount of tax, payable under this Act shall be paid by the person concerned by such date as may be specified in the notice of demand and where no such date is specified, it shall be paid within thirty days from the date of the service of the notice.

**Mode of recovery.** 23. (1) If the demand in respect of any dues under this Act is not paid on or before the date specified as aforesaid, the dealer shall be deemed to be in default :

Provided that the Commissioner may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of payment of the dues or allow such dealer to pay the same by instalments and in that case the dealer shall not be deemed to be in default.

(2) Where a 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 dealer is in default, the Commissioner may order that the amount due shall be recoverable as an arrear of land revenue and may proceed to realise the amount due as such.

**Refunds.** 24. The Commissioner shall, in the prescribed manner, refund to a dealer any sum paid by such dealer in excess of the sum due from him under this Act, either by cash payment or at the option of the dealer by set off against the sum due from him in respect of any other period.

**Remission.** 25. The State Government, for good and sufficient reasons to be recorded in writing, may remit the whole or part of the amount of the tax or penalty payable in respect of any period by any registered dealer.

## Offences and penalties.

## 26. Any person who—

- (1) while being liable to pay tax under the provisions of this Act fails to register himself as a dealer as required under section 5 ; or
- (2) fails, without reasonable cause, to submit in due time any return as required by or under the provisions of this Act or submits a false return ; or
- (3) fails, when required by or under the provisions of this Act, to keep accounts and records of purchases of taxable goods ; or
- (4) fails, when required by or under the provisions of this Act, to produce any accounts, evidence or documents or to furnish any information ; or
- (5) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information ; or
- (6) fraudulently or wilfully evades the payment of any tax due under this Act, or conceals his liability to such tax ; or
- (7) fails to pay within the time allowed, any tax assessed or any penalty levied on him ; or
- (8) fails or neglects to comply with any requirement made of him under the provisions of this Act ; or
- (9) prevents or obstructs inspection or entry by any officer acting under the provisions of this Act ; or
- (10) prevents or obstructs any officer in-charge of a check post or barrier from making any entry or inspection of goods or in intercepting, detaining or searching any vehicle, boat or ship carrying taxable goods ; or
- (11) acts in contravention of any of the provisions of the Act, or rules made there-under,

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 imprisonment which may extend to six months or with

me not exceeding one thousand rupees or with both, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

False statement in declaration.

27. Whoever makes a statement in a verification or declaration in connection with any proceedings under this Act which is false, and which he either knows or believes to be false, or does not believe to be true shall, on conviction before a Magistrate, be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.

Cognizance of offences.

28. (1) 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, and no Court inferior to that of a Magistrate of the first class shall try any such offence.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences punishable under this Act shall be cognizable and bailable.

Act V of  
1898.

Composition of offences.

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

- (a) where the offence consists of the failure to pay, or the evasion of, any tax recoverable under this Act, in addition to the tax so recoverable a sum of money not exceeding one thousand rupees or double the amount of the tax recoverable, whichever is greater; and
- (b) in any other case a sum of money not exceeding one thousand rupees in addition to the tax recoverable.

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

Maintenance  
and preser-  
vation of  
accounts.

30. (1) Every registered dealer or other dealer on whom a notice has been served to furnish returns under sub-section (2) of section 7, shall keep a true account of the taxable goods purchased by him or purchased and despatched by him, as the case may be, and if the accounts maintained in the ordinary course do not, in the opinion of the Commissioner, enable him to apply a proper check on the returns furnished under the provisions of this Act, he may, by a notice in writing require such dealer to keep such accounts (including records of purchases) in such form as he may, subject to anything that may be prescribed, direct.

Information  
to be furni-  
shed regard-  
ing changes  
of business.

31. (1) If any registered dealer —

- (a) sells or otherwise transfers or disposes of his business or any part thereof; or
- (b) discontinues his business or changes place of business or opens a new place of business; or
- (c) changes the name or nature of his business he shall, within such period as may be prescribed, inform the prescribed authority accordingly.

(2) Where any dealer as aforesaid dies, his successor or legal representative shall furnish the information in the like manner.

Computa-  
tion of the  
period of  
limitation.

32. In computing the period of limitation prescribed for an appeal or 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.

Service of  
notice.

33. A notice or requisition under this Act may be served on the person therein named, either by registered post or in the manner in which a summons issued by a Court under the Code of Civil Procedure, 1908 is served. Act V of 1908.

Power to  
order pro-  
duction of  
accounts and  
power of entry  
and inspec-  
tion.

34. (1) Subject to such conditions and restriction as may be prescribed, the Commissioner may, for the purposes of this Act, require any dealer to produce before him any accounts or documents, and to furnish any information relating to the stocks of taxable goods of, or purchases and despatches of taxable goods by, the dealer.

(2) All accounts, registers and other documents relating to the stocks of taxable goods of, or purchases and despatches of taxable goods by any dealer, the taxable goods in his possession and his

offices, shops, godowns, vessels and vehicles shall, at all reasonable times, be open to inspection by the Commissioner.

(3) If the Commissioner has reason to suspect that any dealer is attempting to evade payment of any tax under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the 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 purposes of this Act.

(4) The Commissioner may, for the purposes of sub-section (2) or sub-section (3), enter and search any such place as is mentioned in sub-section (2) on the authority of a search warrant issued by a Magistrate.

(5) The provisions of sections 102 and 103 of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to searches under sub-section (4). **Act V of 1898.**

**Power to call for information.**

35. The Commissioner may, for the purposes of this Act—

(1) require any firm or association of Hindu undivided or joint family to furnish him with a statement of the names and addresses of the members of the firm or association or of the names and addresses of the manager and members of the family, as the case may be ;

(2) require any person whom he has reason to believe to be trustee, guardian, manager or agent to furnish him with a statement of the names of the persons with their addresses for, or of whom, he is a trustee, guardian, manager or agent ; or

(3) require any person whom he has reason to believe to have despatched taxable goods to any place outside the State to furnish him with a statement of the names of person with their addresses to whom he has despatched the taxable goods with quantity thereof.

**Power to take evidence on oath, etc.**

36. The Commissioner shall, for the purposes of this Act, have 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:—

(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 Commissioner shall be deemed to be a "judicial proceeding" Act XLV within the meaning of sections 193 and 228 and for the purposes of section 195 of the Indian Penal Code, 1860.

**Erection of check post.** 37. (1) The State Government may, by notification, set up and erect, in such manner as may be prescribed, check posts and barriers at any place in the State with a view to prevent the evasion of tax payable under this Act.

(2) Every person transporting taxable goods shall, at any check post or barrier set up and erected in accordance with sub-section (1), if so required, shall, make a correct and complete declaration of the taxable goods so transported in such form and in such manner as may be prescribed.

(3) The Officer in-charge of the check post or barrier may, for the purpose of satisfying himself that the provisions of sub-section (2) are not contravened, and subject to such restrictions as may be prescribed, intercept, detain and search any vehicle or boat or ship or any other conveyance which may be suspected of being used for contravening such provisions.

**Bar of suits in Civil Courts and indemnity.** 38. No suit shall be brought in any Civil Court to set aside or modify any assessment made or order passed under the provisions of this Act, and no prosecution, suit or other proceeding shall lie against any officer of the Government for anything in good faith done or intended to be done under this Act or the rules made thereunder.

**Delegation of Commissioner's power.** 39. The Commissioner may, subject to such conditions and restrictions as may be prescribed, delegate, by notification in the official Gazette, any of his powers under this Act to any person appointed under section 4 to assist him.

**Appeal.** 40. (1) Any dealer objecting to an order of assessment or penalty passed under this Act may, within 30 days of service of such order, appeal to the prescribed authority against such assessment or penalty:

Provided that no appeal shall be entertained by the said authority 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 authority before whom the appeal is filed may admit it after expiration of thirty days, if such authority 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 appellate authority 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 an appeal under sub-section (1) the appellate authority may—

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

(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.

Revision by  
Commissio-  
ner.

41. (1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any person appointed under section 4 to assist him, is erroneous in so far as it is prejudicial to the interests of the revenue, he may, after giving the dealer 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 is passed by any person appointed under section 4 to assist him, the Commissioner may, either of his own motion or on a petition by a dealer 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 dealer, as he thinks fit.

(3) In the case of a petition for revision under sub-section (2) by a dealer, 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 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.

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

- (a) where an appeal against the order lies under sections 40 and 42 but has not been made and the time within which such appeal may be made has not expired, or in the case of an appeal to the Board, the dealer has not waived his right of appeal; or
- (b) where the order is pending on appeal under section 40; or
- (c) where the order has been made the subject of an appeal to the Board.

*Explanation*—An order by the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to the dealer.

Appeal to  
the Board.

42. (1) Any dealer aggrieved by an order passed in appeal under section 40 or passed in revision under sub-section (1) of section 41 may appeal to the Board within sixty days of the date on which such order is communicated to him.

(2) The Board may admit an appeal after the expiration of the sixty days referred to in sub-section (1) if it is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within time.

(3) An appeal to the Board shall be in the prescribed form and shall be verified in the prescribed manner, and shall be accompanied by a fee of twenty five rupees.

(4) The Board may, after giving the dealer an opportunity of being heard, pass such orders thereon as it thinks fit, and shall communicate such orders to the appellant and to the Commissioner.

**Power to make rules.** 43. (1) The State Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the classes of officers appointed for purpose of enforcing the provision of this Act, and their duties ;
- (b) the procedure to be followed and the forms to be adopted in proceedings under this Act;
- (c) the intervals at which, and the manner in which the tax under this Act shall be payable ;
- (d) the dates by which and the authority to which returns shall be furnished ;
- (e) the manner in which refunds shall be made ;
- (f) the classes of and the authority for determination and settlement of disputes ;
- (g) the fees for appeal and revisions, supply of certified copies of orders and other matters; and
- (h) any other matter which is required to be or may be prescribed.

(3) In making any rule 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) Every rule made under this section shall be laid, as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the sessions immediately following the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be ; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Power to  
remove  
difficulties. 44. If any difficulty arises in giving effect to the provisions of this Act, the State Government may, as occasion may require, by order, do anything not inconsistent with the provisions of this Act, as appear to them to be necessary or expedient for removing the difficulty.

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