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The 5th August 1967

No. 14/67/5.—The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT IX OF 1967

(Received the assent of the Governor on the 2nd August 1967)

THE ASSAM AGRICULTURAL INCOME-TAX (AMENDMENT)
ACT, 1967

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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 Agricultural Income-tax Act, 1939, hereinafter called the principal Act, in the manner hereinafter appearing ; Assam Act IX of 1939.

It is hereby enacted in the Eighteenth 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, 1967.

(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 and different dates may be appointed for different provisions of this Act.

Substitution of section 19 of Assam Act IX of 1939. 2. For section 19 of the principal Act, the following shall be substituted, namely:—

“Return of income. 19. (1) Every person, if his total agricultural income or the total agricultural income in respect of which he is assessable under this Act during the previous year exceeded the limit of the taxable income prescribed in section 6, shall furnish before the 31st day of December of the relevant financial year, a return of his agricultural income or the agricultural income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed :

Provided that, on an application made in the prescribed manner, the Superintendent of Taxes or Agricultural Income-tax Officer may, in his discretion, extend the date for furnishing the return upto a period not beyond the 28th day of February of the relevant financial year and a simple interest at six per cent per annum shall be payable from the 1st day of January of the relevant financial year to the date of the furnishing return as extended by the Superintendent of Taxes or Agricultural Income-tax Officer on the amount of agricultural income-tax payable on the total agricultural income as finally assessed, reduced by the advance tax, if any, paid.

If the return is not furnished within the 28th February of the relevant financial year as extended by the Superintendent of Taxes or Agricultural Income-tax Officer simple interest upto a maximum of 24 per cent per annum as may be prescribed shall be payable from the 1st day of March of the relevant financial year to the date of the furnishing return on the amount of agricultural income-tax payable on the total agricultural income as finally assessed, reduced by the advance tax, if any, paid.

(2) In the case of any person who, in the opinion of the Superintendent of Taxes or Agricultural Income-tax Officer, is assessable under this Act, whether on his own total agricultural income or on the total agricultural income of any other person during the previous year, the Superintendent of Taxes or Agricultural Income-tax Officer may, before the end of the relevant financial year, serve a notice upon him requiring him to furnish, within thirty days from the date of service of the notice, a return of his agricultural income or the agricultural income of such other person during the previous year, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed:

Provided that on an application made in the prescribed manner the Superintendent of Taxes or Agricultural Income-tax Officer may, in his discretion, extend the date for the furnishing of the return, and when the date for furnishing the return, whether fixed originally or on extension, falls beyond the 31st December of the relevant financial year, the provisions of the proviso to sub-section (1) shall apply.

(3) If any person, who has not been served with a notice under sub-section (2), has sustained a loss of profits or gains in any previous year and claims that the loss or any part thereof should be carried forward under sub-section (2) of section 16, he may furnish,

within the time allowed under sub-section (1), a return of loss in the prescribed form and verified in the prescribed manner and containing such other particulars as may be prescribed, and all the provisions of this Act shall apply as if it were a return under sub-section (1).

(4) Any person who has not furnished a return within the time allowed to him under sub-section (1) or sub-section (2) may furnish the return before the assessment is made and the provisions of the proviso to sub-section (1) shall apply in every such case.

(5) If any person having furnished a return under sub-section (1) or sub-section (2), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the assessment is made and the provisions of the proviso to sub-section (1) shall apply in every such case.

(6) No return under sub-section (1) need be furnished by any person for any previous year if he has already furnished a return of Agricultural income for such year in accordance with the provisions of sub-section (2):

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) of section 35."

Insertion of new sections 19A and 19B in Assam Act IX of 1939.

3. After section 19 of the principal Act, the following shall be inserted as sections 19A and 19B, namely:—

"Return by whom to be signed. 19A. The return under section 19 shall be signed and verified—

- (a) in the case of an individual, by the individual himself; where the individual is absent from India, by the individual concerned or by some person duly authorised by him in this behalf; and where the individual is mentally incapacitated from attending to his affairs, by his guardian or by any other person competent to act on his behalf;
- (b) in the case of a Hindu undivided family, by the Karta, and, where the Karta is absent from India or is mentally incapacitated from attending to his affairs, by any other adult member of such family;

- (c) in the case of a company or local authority, by the principal officer thereof ;
- (d) in the case of a firm, by any partner thereof, not being a minor;
- (e) in the case of any other association, by any member of the association or the principal officer thereof; and
- (f) in the case of any other person, by that person or by some person competent to act on his behalf.

Provisional
assessment.

19B. (1) The Superintendent of Taxes or Agricultural Income-tax Officer may, at any time after the receipt of a return made under section 19, proceed to make, in a summary manner a provisional assessment of tax payable by the assessee, on the basis of his return and the accounts and documents, if any, accompanying it. Where the amount of tax payable as per provisional assessment exceeds the amount paid or deemed to have been paid, the provisions of the proviso to sub-section (1) of section 19 of the Act shall apply in his case.

(2) In making any assessment under this section due effect shall be given to the allowances and deductions as admissible under the Act and the rules.

(3) After a regular assessment has been made, any amount paid or deemed to have been paid towards the provisional assessment made under sub-section (1) shall be deemed to have been paid towards the regular assessment; and where the amount paid or deemed to have been paid towards the provisional assessment exceeds the amount payable under the regular assessment, the excess shall be refunded to the assessee.

Where the amount of tax payable as per regular assessment exceeds the amount paid or deemed to have been paid towards the provisional assessment, the provisions of the proviso to sub-section (1) of section 19 of the Act shall apply in every such case.

(4) Nothing done or suffered by reason or in consequence of any provisional assessment made under this section shall prejudice the determination, on the merits, of any issue which may arise in the course of the regular assessment.

(5) There shall be no right of appeal against a provisional assessment under sub-section (1)."

Substitution
of sections
35 and 36 of
Assam Act
IX of 1939.

4. For sections 35 and 36 of the principal Act, the following shall be substituted, namely:—

"Tax when
payable.

35. (1) Tax payable under this Act shall be paid in the manner hereinafter provided.

(2) Before any assessee furnishes the return required by sub-section (1) or (2) of section 19, 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 in token of payment of such tax.

(3) Where a revised return is submitted by an assessee under sub-section (5) of section 19, 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 assessee shall pay the excess amount of tax and interest, if any, 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 assessee 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.

Mode of re overy. 36.(1) If the demand in respect of any dues under this Act is not paid on or before the date specified in sub-section (4) of section 35, the assessee shall be deemed to be in default:

Provided that the Superintendent of Taxes or Agricultural Income-tax Officer may, in respect of any particular assessee and for reasons to be recorded in writing, extend the date of payment of the dues or allow such assessee to pay the same by instalments and in such case the assessee shall not be deemed to be in default, but in all such cases the provisions of proviso to section 19(1) shall apply.

(2) Where an assessee is in default, the Superintendent of Taxes or Agricultural Income-tax Officer 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 an assessee is in default, the Superintendent of Taxes or Agricultural Income-tax Officer may order that the amount due shall be recoverable as an arrear of land revenue and may proceed to realise the amount as such.

(4) When agricultural income-tax is payable by a trustee, or, is under section 10 payable by a mutawali of a Musalman Wakf referred to in section 3 of the Musalman Wakf Validating Act, 1913 and such trustee or mutawali is in default, the Superintendent of Taxes or Agricultural Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrear due from the assessee, and the Collector on receipt of such certificate shall proceed to recover from such trustee or Mutawali the amount specified therein as arrear of land revenue: Act 6 of 1913.

Provided that, any land held by trustee or mutawali as such shall not be attached or sold in execution of bakijai proceeding but such arrears may be realised from the income of the trust or wakf estate by the appointment of a receiver of any property of the trust of wakf."

Substitu-
tion of sec-
tion 39 of
Assam Act
IX of 1939.

5. For section 39 of the principal Act, the following shall be substituted, namely:—

"Refund. 39. The Superintendent of Taxes or Agricultural Income-tax Officer shall, in the prescribed manner refund to an assessee any sum paid by such assessee in excess of the sum due from him under this Act, either by cash payment or at the option of the assessee by set off against the sum due from him in respect of any other assessment year."

Insertion of
new section
39A in
Assam Act
IX of 1939.

6. After section 39 of the principal Act, the following shall be inserted as section 39A, namely:—

"Remission 39A. The State Government, for reasons to be recorded in writing, may remit the whole or part of the amount of the tax, interest or penalty payable in respect of any year by any assessee who has suffered heavy loss due to any calamity."

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