

**Assam Agricultural Income Tax (Second Amendment) Act,  
1994**

**20 of 1994**

**[06 May 1994]**

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PREAMBLE

AN

ACT

further to amend the Assam Agricultural Income Tax Act, 1939.

Whereas it is expedient further to amend the Assam Agricultural Income Tax Act, 1939, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

It is hereby enacted in the Forty-fifth Year of the Republic of India as follows :-

**1. Short title extent and commencement :-**

(1) This Act may be called the Assam Agricultural Income Tax (Second Amendment) Act, 1954.

(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.

**2. Amendment of section 19 of Assam Act IX of 1939 :-**

In the principal Act, in Section 19, for the existing proviso the following proviso shall be substituted, namely:--

"Provided that no return submitted under this section shall be valid unless the taxes due for the year is paid in full in accordance with the provisions of the Act."

### **3. Omission of section 20 C of Assam Act, IX of 1939 :-**

In the principal Act, Section 20 C shall be omitted.

### **4. Amendment of section 20 D of Assam Act, IX of 1939 :-**

In the principal Act, in Section 20 D in sub-section (6), for the words, "sixteen percentum per annum" and the word, letter and figures, "Section 20 C" the words, letters and figures, "two percentum for each English calendar month" and "Sections 35 C, 35 D and 35 E" respectively shall be substituted.

### **5. Substitution of section 35 of Assam Act. IX of 1939 :-**

In the principal Act, for Section 35, the following shall be substituted namely :

"35. Advance tax :--

(1) Notwithstanding anything contained in this Act, an assessee shall pay to the credit of the State Government, as advance tax, an amount equal to the agricultural income tax calculated in his total agricultural income derived during the latest previous year in respect of which he has been assessed in such number of equal instalments not exceeding four and on such dates as may be prescribed :

Provided that if the assessee is a partner of a firm and the assessment of the firm has been completed for a previous year later than that for which the assessee's last assessment has been completed his share in the profits from the agricultural income of the firm shall, for the purpose of this sub-section, be included in his total agricultural income on the basis of latest assessment of the firm.

35A. Estimate by assessee--

(1) If an assessee who is required to pay advance tax under Section 35 estimates at any time before the last instalment of the advance tax is due in his case and finds that by reason of his income for the year, for which he is liable to pay advance tax, being

likely to be more or less than the income on which the advance tax payable by him under Section 35 or for any other reason, the advance tax payable by him would be more or less than the amount which he is so required to pay, he shall furnish to the Agricultural Income Tax Officer an estimate of--

(i) the current total agricultural income; and

(ii) the advance tax payable by him under this Act, and shall pay such amount of advance tax as accords with his estimate in equal instalments on such dates as may be prescribed.

(2) The assessee may send a revised estimate of the advance tax payable by him on or before the date presented under Section 35 and adjust excess or deficiency in respect of any instalment or instalments.

(3) Any person who has not been previously assessed under this Act shall in each financial year, before the date on which the last instalment of the advance, tax is due in his case, if his current total agricultural income is likely to exceed the amount specified in Section 35, send to the Agricultural Income Tax Officer an estimate of--

(i) the current total agricultural income; and

(ii) the advance tax payable by him under the Act, and shall pay such amount of advance tax as accords with his estimate on such of the dates applicable in his case as have not expired, by instalments which may be revised according to sub-section (2).

(4) After a regular assessment has been made under Section 20, any amount paid as advance tax in pursuance of Section 35 or of this section shall be deemed to have been paid towards the regular assessment, and where the amount of advance tax paid as aforesaid exceeds the amount payable under this regular assessment the excess shall be refunded to the assessee.

Explanation :--In this section, the expression "advance tax " means the agricultural income tax payable in advance in accordance with the provisions of Section 35 or of this section.

(5) In the case of an assessee who has been already assessed by way of regular assessment in respect of total Agricultural Income of any previous year and who has not paid any advance tax under Section 35, the Agricultural Income Tax Officer, if he is of the opinion that such assessee is liable to pay advance tax, may at any time during the financial year but not later than last day or February, by an order in writing require such assessee to pay advance tax calculated on the total Agricultural Income of the latest previous year in respect of which the assessee has been assessed

by way of regular assessment or the total Agricultural Income returned by the assessee in any return of Agricultural Income furnished by him for any subsequent year, whichever is higher, shall be taken and Agricultural Income Tax thereon shall be calculated at the rates in force in the financial year, and issue to such assesses a notice of demand under section 23 specifying the instalment or instalments in which such tax is to be paid.

(6) If after the making of an order by the Agricultural Income Tax Officer under sub-section (5) and at any time before the 1st day of March, a return of Agricultural Income is furnished under Section 19 or a regular assessment is made in respect of a previous year later than referred to in sub-section (5), the Agricultural Income Tax Officer may make an amended order and issue to such assessee a notice of demand under Section 23 requiring the assesses to pay, on or before the due date or each of the dates prescribed under Section 35 falling after the date of the amended order, the appropriate percentage so prescribed under section 35, of the advance tax computed on the basis of the total Agricultural Income returned or in respect of Which regular assessment aforesaid has been made.

(7) An assessee who is served with an order by the Agricultural Income Tax Officer under sub-section (5) or on amended order under sub-section (6), may, if in his estimate the advance tax payable on his current income would be less than or more than the amount of advance tax specified in such order or amended order, send an intimation as provided in subsection (1) to the Agricultural Income Tax Officer to that effect and pay such advance tax as accords with his estimation the instalment or instalments on or before the due date or each of the due dates prescribed under Section 35 falling after the date of such intimation.

**35B. Interest payable by State Government.--**

he State Government shall pay a simple interest at the rate of two percentum for each English Calendar month on the amount by which the aggregate sum of instalments of advance tax paid during any financial year in which they are payable under section 35 or section 35-A, exceeds the amount of the tax determined on regular assessment under section 20 from the first day of the month text after the expiry of three months from the date of such regular assessment upto the month preceding the month in which the refund of the excess amount is made.

**35C. Short payment of advance tax.--**

(1) Where in any financial year, an assessee has paid advance tax

under section 35 or section 35A and the advance tax so paid is less than seventy five percentum of the tax determined on regular assessment under section 20, simple interest at the rate of two percentum for each English calendar month from the first day of April of succeeding financial year in which the advance tax was payable upto the month prior to the month of regular assessment shall be payable by the assessee upon the amount by which the advance tax paid falls short of the tax determined on regular assessment.

(2) Where before the date of completion of a regular assessment, tax is paid by the assessee in accordance with the provisions of the Act, interest shall be calculated in accordance with the foregoing provision upto the month prior to the months in which tax, is so paid and thereafter interest shall be calculated under sub-section (1) on the amount by which the tax so paid falls short of the tax determined on regular assessment.

35D. Interest payable by assessee.--

(1) Where on making the regular assessment under section 20, the Agricultural Income Tax Officer finds that no payment of advance tax has been made in accordance with the provisions of section 35 or section 35A, interest at the rate of two percentum for each English calendar month from the first day of April succeeding the financial year in which the advance tax was payable upto the month prior to the month of such regular assessment shall be payable by the assessee.

(2) Where as a result of an order under section 21, Section 24, section 26, section 27, section 31, section 28 or section 29 the amount on which interest was payable under this section or section 35 C has been reduced, the interest shall be reduced proportionately and the excess interest paid, if any, shall be refunded.

35E. Interest for non-payment of tax demanded.--

(1) Where an assessee does not pay the amount of tax demanded from him after an assessment made under any provision of this Act within the date specified in the notice of demand served on him in this behalf, he shall be liable to pay simple interest from the 1st day of the month following the said date upto the date of full payment at the rate of two percentum for each English calendar month on the amount of tax as finally assessed reduced by the amount of tax paid on or before the said first day until the tax is fully paid.

(2) in calculating the interest payable under this Act, the amount of

advance tax or tax determined on regular assessment under section 20 in respect of which such interest is to be calculated shall be rounded off to the nearest multiple of one hundred rupees, where such amount contains a part of one hundred rupees, if such part is fifty rupees or more, it shall be increased to hundred rupees and if such part is less than fifty rupees, it shall be ignored.

Explanation 1--In this section where an assessee pay any part of the tax after the commencement of interest under sub-section (1) interest shall be payable upto the date of part payment on the entire amount as specified in the said subsection and thereafter on the balance of such payment.

Explanation 2--Where in any case any interest becomes payable under this section, the authority competent to assess the tax in that case under this Act shall record an order to that effect specifying the amount of interest payable and the amount of tax on which and the period for which the interest is payable. Notwithstanding anything contained in this Act an order under this sub-section can be passed at any time when interest under this section is found to be due.

Explanation 3--The provisions of this Act relating to payment and recovery of tax shall so far as may be applicable to payment of interest under this section as if such interest were tax under this Act:

Provided that where any order is passed under sub-section (3) of section 36 of this Act in respect of any dues, any interest relating to the same dues and accrued under the section upto the date of such order and any further interest accruing after such date shall be recovered in the course of proceeding initiated in accordance with the aforesaid sub-section in respect of the said dues and for that purpose no order under sub-section (1) of this section or notice of demand under this Act shall be necessary in respect of such interest.

35F. Section 35B, 35C and 35D not to apply in certain cases.--

The provisions for interest as made in section 35B, section 35C and section 35D shall not be applicable in case of an assessee whose agricultural income tax does not exceed two thousand five hundred rupees.

35G. When assessee deemed to be in default.--

If any assessee--

(a) does not pay any instalment or instalments of advance tax payable by him under section 35 on the date or dates prescribed, or

(b) after filing an estimate or a revised estimate of the advance tax payable by him under section 35A does not pay any instalment in accordance therewith on the date or dates prescribed, or

(c) fails without reasonable cause to file an estimate or a revised estimate as required under section 35A :

He shall be deemed to be in default, in the cases referred to in clauses (a) and (b) in respect of such instalment or instalments and in the case referred to in clause (c), in respect of the amount that falls short of the last instalment of advance tax that would have been payable by him had he submitted an estimate or a revised estimate as required under section 35A and all the provisions of section 36 shall apply in relation to any advance tax payable in pursuance of section 35 and section 35A as if it were an order for payment of tax on regular assessment under section 20:

Provided that if any interest is payable by an assessee under section 35C or section 35D or 35E in respect of any period and penalty is imposed under section 36 read with this section, the aggregate of such interest and penalty shall not exceed the amount for which such assessee is deemed to be in default.

**35H. Submission of evidence of payment with return :--**

An assessee shall except when taxes have been paid in advance in full, submit along with the annual return a receipt from a Government Treasury or Crossed Cheque or Crossed Demand Draft in favour of the Agricultural Income Tax Officer for the full amount of tax payable for the year on the basis of the return after deducting therefrom the advance taxes if any already paid for the year.

## **6. Amendment of Section 36 of Assam Act IX of 1939 :-**

In the principal Act, in section 36--in

(i) in sub-section (1) for the words, figures and bracket, "in sub-section (4) of section 35," the following words, figures and letters shall be substituted, namely :--"Section 35G and 35H";

(ii) in the proviso, in the last line, for the word, figure and letter, section 20C", the following words, figures and letters shall be substituted, namely:--"sections 35C, 35D and 35E."

## **7. Insertion of new sections 51 and 52 in the Assam Act IX of 1939 :-**

In the principal Act, after section 50, the following new sections shall be inserted, namely:--

"51. Power to remove difficulties :--

If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, do anything not inconsistent with such provisions which appear to it to be necessary or expedient for the purpose of removing the difficulty.

52. Saving:--

Notwithstanding anything contained in this Act, the provisions of the earlier laws with inlet and notifications in respect of submission of return, levy of interest and payment of tax and interest relating to the earlier financial years upto the end of the financial year 1993-94 shall be deemed to be in force as if this Act had not been passed.