

## **Assam Entry Tax Act, 2008**

**12 of 2008**

**[13 April 2008]**

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### **SCHEDULE 1 :- SCHEDULE I**

## **Assam Entry Tax Act, 2008**

**12 of 2008**

**[13 April 2008]**

An Act to levy a tax on the entry of goods into any local area in Assam for consumption, use on sale therein for the purpose of providing the infrastructure and amenities to facilitate trade and commerce within the State of Assam Whereas it is expedient to provide for the imposition of a tax on the entry of goods into any local area in Assam for consumption, use or sale therein for the purpose of providing the infrastructure and amenities to facilitate trade and commerce within the Sate of Assam and for matters connected therewith or incidental thereto; It is hereby enacted in the Fifty-ninth Year of the Republic of India as follows- STATEMENT OF OBJECTS AND REASONS\* The Assam Entry Tax Bill, 2008 seeks to levy and collect entry tax on the entry of certain goods into a local area for consumption, use or sale therein to facilitate trade

and commerce. The Bill also seeks to create a fund, namely, the Assam Trade Development Fund into which the proceeds of the entry tax minus the cost of collection shall be credited and which shall be utilised exclusively for the development of infrastructure or amenities to facilitate trade, commerce and intercourse and it shall include the following- (a) Construction, development and maintenance of roads and bridges for linking the market and commercial areas to their hinterland. (b) Creation, development and maintenance of infrastructure for supply of electrical energy, water supply and sanitation and other infrastructure for furtherance of trade or commerce and intercourse. (c) Any other purpose connected with the development of trade and commerce and facilities relating thereto. (d) Providing finance, aid, grants and subsidies to local bodies and Government agencies for the aforesaid purposes. The Bill also seeks to transfer the proceeds of entry tax already collected under the Assam Entry Tax Act, 2001, after deducting therefrom the sum already utilised for aforesaid purposes, to the Assam Trade Development Fund and utilise this amount for the aforesaid purposes. Further, the Bill seeks to repeal the Assam Entry Tax Act, 2001. It seeks to save the actions already taken under the Assam Entry Tax Act, 2001. 1. Published in the Assam Gazette Extraordinary No. 114 vide Notification No. LGL. 3/2007/101, dated 17th April, 2008. \*. Published in the Assam Gazette Extraordinary No. 70, dated 13th March, 2008.

### **1. Short Title, Extent And Commencement :-**

- (1) This Act may be called the Assam Entry Tax Act, 2008.
- (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\*.

\* . Published in the Assam Gazette Extraordinary No. 164 vide Notification No. FTX. 35/2008/18, dated 29th May, 2008.

### **2. Definitions :-**

- (1) In this Act, unless the context otherwise requires,--
  - (a) "Assessing Authority" in relation to any importer means the authority competent to assess such importer;
  - (b) "Entry of goods into a local area" with all its grammatical variations and cognate expressions, means, entry of goods as specified in the Schedule into a local area from any place outside that local area including a place outside the State for consumption,

use or sale therein;

(c) "Entry Tax" means a tax on the entry of goods into a local area for consumption, use or sale therein, levied and payable in accordance with the provisions of this Act;

(d) "Fund" means the Assam Trade Development Fund;

(e) "Importer" means a dealer or any other person, who in any capacity, whether on his own account or on account of a principal or any other person, effects or causes to be effected the entry of goods as specified in the Schedule into a local area or takes delivery or is entitled to take delivery of goods on its entry into a local area for consumption, use or sale therein and includes,-

(i) every person who carries on the business of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;

(ii) every person who carries on business of transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;

Explanation: In case of any goods specified in the Schedule, which is transported through pipelines into a local area, the ultimate recipient of the goods in the local area shall be deemed to be the importer;

(f) "Import value" means the value of goods specified in the Schedule as ascertained from the original invoice and includes the charges paid or payable for insurance, excise duty, freight charges and all other charges incidentally levied on the purchase of such goods :

Provided that where the import value is not ascertainable on account of non-production or non-availability of original invoice, or where invoice produced is proved to be false, or if such goods have been procured or obtained otherwise than by way of purchase, the import value shall be determined on the basis of fair market value of such goods;

(g) "Local area" means any area of the State within the limits of any local authority including any area under--

( i ) Municipal Corporation of Guwahati, constituted under the Guwahati Municipal Corporation Act, 1969 (Assam Act I of 1973); or

(ii) Municipality or Town Committee constituted under the Assam Municipal Act, 1956 (Assam Act XV of 1957); or

(iii) Gaon Panchayat or an Anchalik Panchayat or a Zilla Parishad constituted under the Assam Panchayat Act, 1994 (Assam Act XVIII of 1994); or

- (iv) North Cachar Hills Autonomous Council or Karbi Anglong Autonomous Council and Bodoland Territorial Council; or
  - (v) any other local authority, by whatever name called, constituted or continued under an Act of the Parliament or the State Legislature;
  - (h) "Motor Vehicle" means a motor vehicle as defined in clause (28) of Section 2 of the Motor Vehicles Act, 1988 (Central Act 59 of 1988) including motor cars, motor taxi cabs, motor cycles, motor cycle combinations, motor scooters, motorette, motor omnibuses, motor vans, motor lorries and chassis of motor vehicles and bodies or tankers built or meant for mounting on chassis of motor vehicles, tractors, bulldozers, excavators, cranes, dumpers, three wheelers, road rollers and earthmovers;
  - (i) "prescribed" means prescribed by rules made under this Act;
  - (j) "Schedule" means Schedule appended to this Act;
  - (k) "section" means a section of this Act;
  - (l) "Specified Goods" means goods specified in the Schedule;
  - (m) "State Government" means the Government of Assam.
- (2) All expressions used but not defined in this Act and defined in the Assam Value Added Tax Act, 2003 (Assam Act VIII of 2003) shall have the same meanings respectively assigned to them in that Act.

### **3. Levy Of Tax :-**

(1) Subject to the other provisions of this Act, there shall be levied and collected an entry tax on the entry of specified goods into any local area for consumption, use or sale therein, at the rates respectively specified against each item in the Schedule. The entry tax shall be leviable on the import value of the specified goods and shall be paid by every importer of such goods :

Provided that no entry tax shall be levied under this section on the entry of specified goods into a local area, if it is proved to the satisfaction of the assessing authority, in such manner as may be prescribed, that such goods have already been subjected to entry tax or that the entry tax has been paid by the importer or any other person under this Act in respect of the same goods.

(2) Notwithstanding anything contained in sub-section (1), and subject to production of documentary proof, no entry tax shall be levied on such specified goods, which are also taxable under the Assam Value Added Tax Act, 2003 (Assam Act VIII of 2003),-

- (i) if such specified goods are brought into any local area by a

dealer registered under the Assam Value Added Tax Act, 2003 for the purpose of resale and such goods are sold inside the State and the dealer is liable to pay tax on the sales of such goods under the Assam Value Added Tax Act, 2003 (Assam Act VIII of 2003);

(ii) if such specified goods are sold in the course of inter state trade or commerce or in the course of export out of the territory of India or such goods are otherwise despatched outside the State by way of stock transfer by a dealer registered dealer under the Central Sales Tax Act 1956 (Central Act 74 of 1956);

(iii) if such specified goods are imported into a local area in the course of import from outside the territory of India; Provided that, if any such dealer, after importing the specified goods, consumes such goods in any form or deals with such goods in any other manner, he shall inform the assessing authority before the 21st day of the month, succeeding the month in which such goods are so consumed or dealt with and pay the tax, which would have been otherwise leviable under the provisions of this Act.

(3) Where the specified goods, the sales of which are exempted under the Assam Value Added Tax Act, 2003 (Assam Act VIII of 2003) for reasons of such goods being included in the First Schedule to the said Act, which after entry into a local area are sold by an importer in the course of inter state trade or commerce or in the course of export out of the territory of India or are despatched outside the State by way of stock transfer, the import value of such specified goods subsequently sold or sent out in the manner mentioned above shall, subject to production of proof, be deducted from the total import value to determine the taxable import value.

(4) The State Government may, by notification in the Official Gazette, in the public interest or taking into account the infrastructure and amenities provided or to be provided to facilitate trade and commerce, vary the rates of tax of the specified goods and on such notification being issued, the Schedule shall be deemed to have been amended accordingly :

Provided that the rate of tax to be specified or varied by the State Government in respect of any such goods shall not exceed twenty percentum.

#### **4. Levy Of Tax On Motor Vehicle :-**

(1) Notwithstanding anything contained in section 3, there shall be levied and collected a tax on the entry of any motor vehicle into a local area for use or sale therein by an importer which is liable for

registration or assignment of a new registration mark in the State under the Motor Vehicles Act, 1988 (Central Act 59 of 1988).

(2) The tax shall be payable and paid by an importer within 30 days from the date of the entry of a motor vehicle into the local area or before an application is made for registration of the vehicle under the Motor Vehicles Act, 1988 (Central Act 59 of 1988) whichever is earlier.

(3) No tax shall be levied and collected in respect of a motor vehicle which is registered in any Union Territory or any other State under the Motor Vehicles Act, 1988 (Central Act 59 of 1988), fifteen months prior to the date on which a new registration mark is assigned in the State under the said Act.

(4) Where any person causes entry of a motor vehicle into a local area within a period of fifteen months from the date of registration of such vehicle in any Union Territory or any other State under the Motor Vehicles Act, 1988 (Central Act 59 of 1988), and that such entry is occasioned as a result of shifting of the place of his residence from such Union Territory or State into this State, the Commissioner may exempt such person from payment of entry tax on entry of such motor vehicle subject to production of proof in this regard.

(5) Notwithstanding anything contained in any other law for the time being in force, where the liability to pay tax in respect of a motor vehicle arises under this act and such motor vehicle is required to be registered or a new registration mark is required to be assigned to it in the State under the Motor Vehicles Act, 1988 (Central Act 59 of 1988), no Registering Authority shall either register any such motor vehicle or assign any new registration mark to such motor vehicle unless payment of such tax has been made by the person concerned in respect of such vehicle.

## **5. Composition Of Tax Liability :-**

Notwithstanding anything contained in this Act, the State Government may, by notification published in the Official Gazette and subject to such conditions and restrictions, if any, as may be specified therein, permit any class of importer to pay in lieu of the tax payable under this Act, for any period, an amount linked with the volume or quantity of specified goods or some such other thing to be determined by the State Government by way of composition and to be paid at such intervals and in such manner, as may be specified in such notification.

## **6. Exemption From Tax :-**

(1) Notwithstanding anything contained in section 3, no entry tax on the entry of specified goods into a local area shall be payable, if such specified goods are-

- (a) meant for the exclusive use or consumption of the Defence Department of the Government of India, or
- (b) the exclusive property of the Union Government, or
- (c) brought for the purpose of sale or use under the Assam Public Distribution of Articles Order, 1982.

(2) the State Government may, by notification in the Official Gazette, grant exemption to any organisation or undertaking of the Central Government or of the State Government, retrospectively or prospectively, in respect of such goods as may be specified in such notification, from payment of entry tax on entry of such goods into any local area for consumption or use therein provided that such goods are the exclusive property of such organisation or undertaking.

(3) The State Government, if considers it necessary in the public interest so to do, may by notification in the Official Gazette, subject to such conditions and restrictions as it may impose, exempt, any importer or class of importers, fully or partially from payment of entry tax on any specified goods and the State Government may also grant such exemption retrospectively:

Provided that the State Government may withdraw any such exemption at any time, as it may think fit and proper.

## **7. Principles Governing Entry Tax :-**

The entry tax payable by an importer shall be levied in accordance with the principles as stated below-

- (a) entry tax shall not be payable unless the importer effects entry of the specified goods into a local area;
- (b) where any such goods are consumed, used or sold in a local area by the importer, it shall be presumed, until the contrary is proved by him, that such goods had entered into that local area for consumption, use or sale therein.

## **8. Registration, Return, Assessment, Collection Etc. Of Entry Tax :-**

Subject to the provisions of the Act and the rules made thereunder, the administration of this Act in so far as it relates to registration,

submission of returns by the importers and collection of entry tax from them, shall vest in the authorities specified in or under the Assam value Added Tax Act, 2003 (Assam Act VIII of 2003) and accordingly, the said authorities, empowered to register, receive returns, to assess or reassess and collect tax and enforce payment of any tax under the said Act, shall register, receive returns, assess, reassess and collect entry tax and enforce payment of entry tax, including imposition and realisation of any penalty payable by an importer under this Act as if the tax or penalty payable by such importer under this act is a tax or penalty payable under the said Act and for this purpose they may exercise all or any of the powers conferred upon them by or under that Act.

#### **9. Applicability Of The Provisions Of The Assam Value Added Tax Act, 2003 :-**

Subject to the provisions of this Act and rules made thereunder, Sections 19, 21, 22, 23, 25, 27, 28, 29, 31, 32, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 52, 53, 55, 59, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 102, 103, 104, 105, 109 and 110 of the Assam Value Added Tax Act, 2003 (Assam Act VIII of 2003) and the rules made thereunder, orders, notifications issued thereunder shall mutatis mutandis apply to an importer in respect of entry tax levied and payable under this Act, as if those sections were mutatis mutandis incorporated in this Act and the rules framed and orders and notification issued under those sections were mutatis mutandis issued under the relevant sections so incorporated under this Act.

#### **10. Utilization Of The Proceeds Of The Levy Under The Act :-**

(1) The proceeds of the entry tax minus cost of collection, shall be credited and appropriated to the Fund constituted under this section by notification in the Official Gazette and shall be utilized exclusively for the development of infrastructures or amenities to facilitate trade, commerce and intercourse and it shall include the following-

(a) construction, development and maintenance of roads and bridges for linking the market and commercial areas to their hinterlands;

(b) creation, development and maintenance of infrastructure for



- supply of electrical energy, water supply and sanitation and other infrastructure for furtherance of trade, commerce and intercourse;
- (c) any other purpose connected with the development of trade and commerce or for facilities relating thereto which the State Government may specify by notification,
- (d) providing finance, aids, grants and subsidies to local bodies and Government agencies for the purposes specified in clauses (a), (b) and (c).
- (2) The amount realised as entry tax shall not be used for the purposes other than those specified in sub-section (1).
- (3) The State Government shall transfer the proceeds of entry tax already collected under Assam Entry Tax Act, 2001, after deducting therefrom, the sum utilized under clause (a) to (d) of subsection 1) to the fund constituted under this Act and such amount on being transferred to the fund shall be utilized for the purposes specified in sub-section (1).
- (4) The tax under this Act shall be continued to be levied till such time as is required to improve the infrastructure or amenities to facilitate trade and commerce.

### **11. Power Of Government To Make Rules :-**

(1) The State Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this act:

Provided that if the State Government is satisfied that circumstances exist which render it necessary for it to take immediate action, if any, it may make any rules without such previous publication:

Provided further that any rule under this Act may be made so as to have the retrospective effect.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for-

(a) the manner and procedure of deposit of tax under appropriate Head of Accounts and the manner in which the proceeds of the tax shall be utilized;

(b) all matters expressly required or allowed by this Act to be prescribed;

(c) the fees to be paid in connection with the registration, memorandum of appeals, petition for revisions, certified copies of orders, petitions, other matters and any other matter ancillary or incidental thereto; and

(d) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of the State Government, necessary for giving effect to the purposes of this Act.

(3) In making any rules under this section, the State Government may direct that a breach thereof shall be punishable with fine not exceeding five thousand rupees and, when the offence is a continuing one, with a daily fine not exceeding one hundred rupees during the continuance of such offence.

(4) The State Government shall cause every rule made under this Act and every notification issued under this Act to be laid, as soon as may be, after it is published before the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions in which it is so laid or the sessions immediately following, and if the State Legislature agrees in making any modification in the rule or notification or that the rule or notification should not be made, the rule or notification 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 or notification.

## **12. Validation :-**

Notwithstanding anything contained in any judgement, decree or order of any Court or other authority to the contrary, entry tax levied or collected or purported to have been levied or collected under the tax under the Assam Entry Tax Act, 2001 (Assam Act IV of 2001), as amended from time to time, and all actions taken, things done, rules made, notifications issued or purported to have been taken, done, made or issued under the said Act shall, for all purposes, be deemed to be and to have always been validly levied, collected, taken, done, made or issued under the provisions of this Act, as if this Act were in force at all material times and accordingly-

(a) no suit or other proceeding shall be maintained or continued in, or before any court, tribunal or other authority for the refund of any amount received or realized by way of such tax;

(b) no court, tribunal or other authority shall enforce any decree or order directing the refund of any amount received or realized by way of such tax;

(c) any proceeding, act or thing which could have been validly

taken, continued or done for the levy or collection of such tax at any time under the provisions of the said Act but which had not been taken, continued or done, may be taken, continued or done.

### **13. Repeal And Saving :-**

(1) The Assam Entry Tax Act, 2001 (Assam Act IV of 2001) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Act so repealed shall be deemed to have been done or taken under the corresponding provisions of this Act, as if this Act were in force at all material times.

#### **SCHEDULE 1**

#### **SCHEDULE I**

[See clause (j) and (l) of Section 2]

<b>Sl. No.</b>	<b>Specified Goods</b>	<b>Rate of tax (per- centum)</b>
1.	Cement.	12
2.	Refrigerators, air coolers, air conditioning plant, geysers, washing machines, Xerox and Fax machines and component and parts thereof.	8
3.	Telecommunication equipment including Telephones, mobile phones, pagers and component and parts thereof.	8
Television sets both coloured and black and white, videocassette recorders, video cassette players, VCD player, DVD player, videocassette tapes, wireless reception instrument and apparatus and radios and parts thereof.		