

**Assam General Sales Tax ( Amendment) Act, 1995**

**15 of 1995**

**[30 April 1995]**

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PREAMBLE

An

Act

further to amend the Assam General Sales Tax Act, 1993.

Whereas it is expedient further to amend the Assam General Sales Tax Act, 1993 (Assam Act XII of 1993) hereinafter referred to as the principal Act, in the manner hereinafter appearing ;

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

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

- (1) This Act may be called the Assam General Sales Tax (Amendment) Act, 1995.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

## **2. Amendment of section 2 of Assam Act XII of 1993 :-**

In the principal Act, in section 2,-

- (1) in sub-section (17), for the words "goods turnover" occurring at the beginning thereof the words "gross turnover" shall be substituted ;
- (2) in sub-section (36), the word the occurring after the words "involved in" shall be deleted.

## **3. Amendment of section 23 of A Act XII of 1993 :-**

In the principal Act, in section 23, in sub-section (1),-

- (a) in the para after clause (i), for the word "prescribed" occurring after the word "be" and before the punctuation mark comma, the word "specified", shall be substituted;
- (b) in sub-clause (v) of clause (i), the words " "determined in the prescribed manner" occurring at the end, shall be deleted ;
- (c) for the word, brackets and figure "Explanations (1)" occurring after sub-clause (vi) of clause (i) the word "Explanation" shall be substituted :-

## **4. Amendment of section 26 of Assam Act XII of 1993 :-**

In the principal Act, in section 26,-

- (1) in sub-section (1), for the word, bracket and figure "Explanation (1)" occurring after sub-clause (b) the word "Explanation" shall be substituted ;
- (2) in sub-section (9), for the word "be" occurring after the word "may" and before the word "Notification" the word "by" shall be substituted;
- (3) in sub-section (9), between the figure "1886" and the word "for" the words "and under the Bengal Public Demand Recovery Act, 1913 (Bengal Act 3 of 1913)" shall be inserted.

## **5. Amendment of section 27 of Assam Act XII of 1993 :-**

In the principal Act, in section 27 in sub-section (1),-

- (1) in clause (a), for the figure "VI" occurring after the word "Schedule" and before the word "for" the figure "VII" and for the

punctuation mark full stop occurring after the word "purpose", the punctuation mark comma shall be substituted and thereafter the word "or" shall be inserted.

(2) after clause (b), for the words "prescribed rate" occurring after the words "at the", the words "rates specified in the Schedules of the Act", shall be substituted,

#### **6. Amendment of section 36 of Assam Act XII of 1993 :-**

In the principal Act, in section 36, in subsection (2) for the word "on" occurring therein after the word "which" and before the word "appeal" the word "an", and for the figure "35" occurring therein after the word "section" and before the word "has" the figure "33" shall be substituted ;

#### **7. Amendment of section 40 of Assam Act XII of 1993 :-**

In the principal Act, in section 40, in sub-section (2),-

(a) for the words "such particulars as may be laid down by the Commissioner by notification" occurring at the end of the principal clause of the sub-section the words "particulars of such transaction", shall be substituted ; and

(b) the proviso thereto shall be deleted.

#### **8. Amendment of section 41 of Assam Act XII of 1993 :-**

In the principal Act, for the existing section 41, the following shall be substituted namely:-

41. "Preservation of books of accounts, documents etc.

All books of accounts and documents referred to in sub-section (1) of section 40 and all declarations and other documents laid down under sub-section (2) of section 10, shall be preserved by the dealer for a period of not less than eight years from the end of the year to which they relate :

Provided that where an assessment, re-assessment, appeal, revision or any period is pending at the end of the aforesaid period of eight years such books of accounts, documents and declarations shall be preserved till such pending proceedings are finally disposed of".

#### **9. Amendment of section 42 of Assam Act XII of 1993 :-**

In the principal Act, in section 42,-

(1) for the word, bracket and figure "Explanation (1)" occurring at the end, the word "Explanation" shall be substituted, and

(2) the Figure "2" occurring before the bracket and figure" (ii)" of the clause (ii) of the Explanation shall be deleted.

**10. Amendment of section 57 of Assam Act XII of 1593 :-**

In the principal Act, in section 57,-

(1) in clause (c), between the figure "43" and the punctuation mark semicolon the words and figures, "or 44 or 46", shall be inserted; and

(2) in the para occurring after clause (d), after the word " shall and before the words "be punishable" the words "on conviction", shall be inserted.

**11. Amendment of sections 58, 39, 60, 61 and 62 of Assam Act XII of 1993 :-**

In the principal Act, in sections 58, 59, 60, 61 and 62 between the words "shall" and "be punishable" wherever they occur, the words "on conviction" shall be inserted.

**12. Insertion of Section 65 A of Assam Act XII of 1993 :-**

In the principal Act, after the existing section 65 the following shall be inserted as section 65 A, namely :-

65A. Prohibition of collection of excess tax forfeiture penalty etc.

(1) No person shall collect any sum by way of tax in respect of sales of any goods on which no tax is payable under the provisions of this Act.

(2) No person who is not a registered dealer and not liable to pay tax in respect of any sum by way of tax from any other person and no registered dealer shall collect any amount by way of tax in excess of the amount of tax, payable by him under the provisions of this Act.

(3) If any person,

(a) not being a dealer liable to pay tax under this Act, collects any sum by way of tax, or

(b) being a registered dealer collects any sum by way of tax in excess of the tax payable by him, or

(c) otherwise collects tax in contravention of the provisions of subsection (1), any sum collected by that person by way of tax in contravention of sub-section (1), shall be forfeited to the State Government and when any order of forfeiture is made the Assessing officer shall publish or cause to be published a notice

thereof for the information of the persons concerned.

(4) Where the Assessing Officer has reason to believe that any person has wilfully contravened provisions of sub-section (1), he may impose upon such person a penalty of an amount not exceeding two thousand rupees or double/the sum collected by such person by way of tax in contravention of the provisions of subsection (1), whichever is less :

Provided that no such order of forfeiture or penalty shall be passed unless the person or the registered dealer has been given reasonable opportunity of being heard.

(5) The Assessing Officer shall communicate the order passed under sub-section (4) and also issue a notice of demand to the person or the registered dealer to whom a penalty was imposed for payment within the time specified by the Assessing Officer.

(6) The Assessing Officer shall refund such amount to the person or the registered dealer on application made in this behalf within ninety days of the date of forfeiture provided such person or persons discharge the onus to the satisfaction of the Assessing Officer that such amount of tax was actually collected from him :

Provided that the provisions of section 30 shall apply for refund of such amount."

### **13. Amendment of section 66 of Assam Act XII of 1993 :-**

In the principal Act, the existing section 66 shall be renumbered as section 66(1) and after such renumbering thereof, the following shall be inserted as sub-section (2) thereto, namely-

"(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (Act, 2 of 1974), all offences punishable under this Act shall be cognizable."

### **14. Amendment of section 72 of Assam Act XII of 1993 :-**

In the principal Act, in section 72,-

(1) in sub-section (2), after clause (i) the following shall be inserted as clause (ii) thereof namely-

"(ii) the fees to be paid in connection with registration, memorandum of appeal or revision, certified copies of orders, petitions, other matters and any other matters ancillary or incidental thereto" ; and

(2) after insertion of clause (ii) as aforesaid, the existing clause (ii) shall be renumbered as clause(iii),

**15. Amendment of section 73 of Assam Act XII of 1993 :-**

In the principal Act, in section 73,-

(1) the word "Legislature" occurring between the words a and total shall be deleted, and

(2) for the word it and the punctuation mark comma occurring between the words and and the House the word if shall be substituted ;

**16. Amendment of section 74 of Assam in Act XII of 1993 :-**

In the principal Act, in section 74, sub-section (3),-

(1) for clause (c) the following shall be substituted, namely-

"(c) any penalty, offence and prosecution in case of return, statement of accounts delivered, furnished or produced on or after the appointed day."

(2) the existing clause (f) shall be renumbered as clause (e) and after clause (e) so renumbered the following shall be inserted as clause (f), namely-

"(f) any exemption of tax by way of grant of relief from any date before the appointed day."

(3) after clause (f) sub-section (3), the following shall be inserted as sub-section (4), namely-

"(4) Notwithstanding anything contained in section 5, section 33, and sub-section (3) of section 74, all proceedings for appeals pending before the Assam Board of Revenue, constituted under the Assam Board of Revenue Act, 1959 (Assam ActVIII of 1960) or any statutory modification or enactment thereof before the appointed day may be taken or continued as if this Act has not been passed."