

**Assam Health Infrastructure And Services Development  
Fund Act, 2009**

**17 of 2009**

**[26 August 2009]**

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**SCHEDULE 1 :- Schedule**

**Assam Health Infrastructure And Services Development  
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PREAMBLE

An

Act

to establish a fund to create, develop, maintain or improve health infrastructure and services in Assam and for such purpose to levy and collect a cess on sale of tobacco products and for matters connected therewith or incidental thereto.

Whereas it is expedient to establish a fund to create, develop, maintain or improve health infrastructure and services in Assam and for such purpose to levy and collect a cess on sale of tobacco products and to provide for matters connected therewith or

incidental thereto;

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

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

(1) This Act may be called the Assam Health Infrastructure and Services Development Fund Act, 2009.

(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.

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

(1) In this Act, unless the context other-wise requires,--

(a) "cess means the cess levied and collected under section 3;

(b) "dealer" means dealer as defined under the Assam Value Added Tax Act, 2003 (Assam Act No. VIII of 2005);

(c) "fund" means the Assam Health Infrastructure and Services Development Fund established under sub-section (1) of section 7;

(d) "goods" means the goods specified in column (2) of the Schedule;

(e) "notification" means a notification published in the Official Gazette;

(f) "person" means dealer as defined under the Assam Value Added Tax Act, 2003 (Assam Act No. VIII of 2005);

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

(h) "schedule" means a Schedule to this Act;

(i) "State Government" means the Government of Assam.

(2) All expressions used in this Act and not defined but defined in the Assam Value Added Tax Act, 2003 (Assam Act No. VIII of 2005) shall have the same meanings respectively assigned to them in that Act.

### **3. Incidence of cess, rate thereof and payment of cess :-**

(1) There shall be levied and collected, for the purposes of this Act, a cess on every sale of goods mentioned in the Schedule in the State of Assam by any person. The cess shall be leviable on sale price of such goods at the rate specified in column (3) of the Schedule:

Provided that, subject to such conditions as may be prescribed, the State Government may exempt, by notification in the Official

Gazette prospectively or retrospectively, any sale of goods from levy of cess.

(2) The cess leviable under sub-section (1) shall be payable by the person who sells such goods in the State of Assam.

(3) The cess leviable under sub-section (1) shall be in addition to any tax or duty, by whatever name called, leviable on sale of the goods under any other law for the time being in force in the State of Assam.

(4) A dealer who pays cess under sub-section(1) shall be eligible to claim input tax credit on cess already paid at the time of purchase of such goods in the State.

#### **4. Powers of the State Government to amend Schedule :-**

The State Government may, by notification in the Official Gazette, add to or omit from the Schedule any entry or entries or vary any entry or entries or the rate or rates or otherwise amend or modify the Schedule prospectively or retrospectively, and thereupon the Schedule shall be deemed to have been amended accordingly:

Provided that the Government shall not vary the rate of tax so as to enhance it, in any case, exceeding 5%.

#### **5. Registration, return, assessment, collection etc. of cess :-**

Subject to the provisions of the Act and Rules made thereunder, the administration of this Act in so far as it relates to registration, submission of returns by the dealers and collection of cess from them, shall vest in the authorities specified in or under the Assam Value Added Tax Act, 2003 (Assam Act No. VIII of 2005) and accordingly, the said authorities, empowered to register, receive returns, to assess or re-assess and collect tax and enforce payment of tax under the said Act, shall register, receive returns, assess, re-assess and collect cess under this Act and enforce payment of cess, including imposition and realization of any penalty payable by an dealer under this Act as if the cess or penalty payable by such dealer under this Act is a cess or penalty payable under that Law and for this purpose they may exercise all or any of the powers conferred upon them by or under that Law.

#### **6. - 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, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50, 52, 53, 55, 56, 57, 59, 60, 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 and 110 of the Assam Value Added Tax Act, 2003 (Assam Act No. VIII of 2005) and the rules made thereunder and also the orders and notifications issued thereunder shall mutatis mutandis apply to a dealer in respect of cess 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.

## **7. Establishment of Fund :-**

(1) There shall be established for the purposes of this Act, a fund to be called the Assam Health Infrastructure and Services Development Fund.

(2) The fund shall be under the control of the State Government and there shall be credited thereto--

(a) any sum of money credited under section 8;

(b) any sum of money credited under section 9;

(c) any sum realised by the State Government in carrying out its functions under this Act or in the administration of this Act;

(d) any fund provided by the Central Government for the creation, development, maintenance or improvement of health infrastructure and services.

(3) The balance to the credit of the fund shall not lapse at the end of the financial year.

## **8. Crediting of cess to the fund :-**

The proceeds of the cess levied under section 3 shall first be credited to the Consolidated Fund of State Government, and the State Government may, if the State Legislature by appropriation made by law in this behalf so provides, credit such proceeds to the fund from time to time, after deducting the expenses of collection, for being utilised exclusively for the purposes of this Act.

## **9. Grants and loans by State Government :-**

The State Government may, after due appropriation made by the

State Legislature by law in this behalf, credit in the Fund, by way of grants or loans, such sums of money as the State Government may consider necessary.

#### **10. Utilisation of Fund :-**

The Fund shall be utilised for--

- (a) the creation, development, maintenance or improvement of health infrastructure, including medical colleges, hospitals, dispensaries and sub-centres;
- (b) the maintenance and improvement of health services;
- (c) such other related purposes as may be prescribed;
- (d) to provide medical aids to the physically challenged persons.

#### **11. Management of funds :-**

The State Government shall maintain proper accounts and other relevant records of the fund in such form, and in such manner, as may be prescribed.

#### **12. Administration of fund :-**

The State Government shall administer the fund by itself or through an agency as may be notified by it and take such decisions as it considers necessary for proper administration of the fund.

#### **13. Power to make rules :-**

(1) The State Government may, subject to the condition of previous publication, make rules, by notification, with prospective or retrospective effect, 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:

(2) All rules made by the State Government under this Act shall, as soon as may be, after they are made, be laid before the State Legislature while it is in session for a total period of not less than fourteen days which may be comprised in one session or two or more successive sessions, and shall, unless some later date is appointed, take effect from the date of their publication in the Official Gazette subject to such modifications or annulments as the Legislature may, during the said period agrees to make, so however, that any such modification or annulment shall without

prejudice to the validity of anything previously done thereunder.

**SCHEDULE 1**

Schedule

**Schedule**  
**[See section 3]**

<b>Sl. No.</b>	<b>Name of goods</b>	<b>Rate of cess</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>
1.	Cheroots	3%
2.	Cigarettes	3%
3.	Cigar	3%
4.	Zarda	3%
5.	Smoking mixtures for pipes and cigarettes	3%
6.	Tobacco mixed pan masala including gutka	3%