

Assam Purchase Tax (Amendment) Act, 1992

04 of 1993

[11 February 1993]

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PREAMBLE

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ACT

further to amend the Assam Purchase Tax Act, 1967.

Whereas it is expedient further to amend the Assam Purchase Tax Act, 1967 (Assam Act XIX of 1967), hereinafter referred to as the principal Act.

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

1. Short title, extent and commencement :-

- (1) This Act may be called the Assam Purchase Tax (Amendment) Act, 1992.
- (2) It shall have the like extent as the principal Act.
- (3) It shall come into force at once.

2. Amendment of Section 37 of Assam Act XIX of 1967 :-

In the principal Act, for section 37 and the marginal heading thereof, the following shall be substituted, namely :--

"37. Power to inspect goods delivered to a carrier or bailee.

Where goods are delivered to a carrier or a bailee for transmission,

the movement of goods shall be deemed to commence at the time of such delivery and terminate at the time when delivery is taken from such carrier or bailee. Where before delivery is taken from him, a carrier or bailee to whom goods are delivered for transmission, keeps the said goods in any office, shop, godown, vessel, receptacle, vehicle or any other place of business or any building or place, any officer empowered by the State Government in this behalf, shall have power to enter into and search such office, shop, godown, vessel, receptacle, vehicle or other place of business or any building or place, and to examine the goods and inspect all records relating to such goods. The carrier or bailee or the person incharge of the goods and records shall give all facilities for such examination or inspection and shall, if so required, produce the bill of sale or delivery note or such other documents as may be prescribed and give a declaration containing such particulars as may be prescribed regarding the goods and give the name and address of the carrier or the bailee and the consignee.

37 A. "Erection of Check-posts and inspection of goods while in transit.

(1) If the State Government consider that with a view to preventing or checking evasion of tax under this Act in any place or places in the State, it is necessary so to do, they may, by notification, direct the setting up of a check-post or the erection of a barrier or both, at such place or places as may be notified.

(2) At every check-post or barrier mentioned in sub-section (1), or at any other place when so required by any officer empowered by the State Government in this behalf, the driver or any other person in charge of any goods vehicle or boat shall stop the goods vehicle or boat as the case may be, and keep it stationary as long as may reasonably be necessary, and allow the officer in charge of the check-post or barrier or the officer empowered as aforesaid, to examine the contents in the goods vehicle or boat and inspect all documents relating to the goods carried which are in the possession of such driver or other person in charge, for the purposes of ascertaining whether there has been any sale or purchase of the goods carried and in case there was sale or purchase of the goods, carried, whether such sale or purchase is liable to tax under this Act, and if so--

(a) Whether such tax has been paid, or

(b) Whether the sale or purchase of the goods carried has, for the purpose of the payment of tax under this Act, been properly accounted for in the documents referred to in sub-section(5).

(3) If, on such examination and inspection, it appears--

(a) (i) that the tax, if any, payable under this Act, in respect of the sale or purchase of the goods carried, has been paid, or

(ii) that the sale or purchase of the goods carried has for the purpose of payment of tax under this Act, been properly accounted for in the documents referred to in sub-section(5) and the declarations given was correct and complete to the satisfaction of the check-gate officer the said officer shall release-the goods vehicle or boat with the goods carried, or

(b) (i) that the tax, if any payable under this Act, in respect of the sale or purchase of the goods, carried, has not been paid, or

(ii) that the sale or purchase of the goods carried has, for the purpose of payment of tax under this Act, not been properly accounted for in the documents referred to in sub-section (5) or no correct and complete declaration is given in respect of goods carried and if the said officer is satisfied, after making such enquiry as he deems fit, that with a view to preventing the evasion of tax payable in respect of the sale or purchase of the goods carried, it is necessary to detain the goods, he shall detain the goods, and direct the driver or any other person in charge of the goods vehicle or boat, or the consignor or the consignee, to pay such tax, or to furnish adequate security in such form and in such manner and to such authority as may be prescribed, on behalf of the person liable to pay such tax.

(4) If the tax is paid or the security is furnished then the goods so detained shall be released forthwith.

(5) The documents referred to in sub-sections (2) and (3) are bills of sale, or delivery notes, or such other documents as may be prescribed.

(6) The driver or any other person in charge of the: goods vehicles or boat shall, if so required, give his name and address and the name and address of the owner of the goods vehicle or boat as well as those of the consigner and the consignee of the goods.

(7) The driver of the goods vehicle or boat shall, on demand by the said officer, produce for inspection his driving licence.

(8) (a) If the tax directed to be paid or the security directed to be furnished under sub-section (3) is not paid or furnished; or

(b) if it appears to the said officer that the driver or the person in charge of the goods vehicle or boat is not giving the correct name and address of the owner of the goods vehicle or of the boat, or of the consignor or of the consignee of the goods, and if the said officer is satisfied after making such enquiry as he deems fit, that

with a view to preventing the evasion of tax payable in respect of the sale or purchase of the goods carried, it is necessary to detain the goods, he shall detain the goods either in the check-post or elsewhere as long as may reasonably be necessary and shall ascertain the correct name and address of the owner of the goods vehicles or boat or of the consignor or of the consignee of the goods :

Provided that no such goods shall be detained by the said officer for more than forty-eight hours except with the permission of the next higher authority.

(9) The said officer may, in his discretion, permit the driver or other person in charge of the goods Vehicle or boat to take the goods detained under sub-section (8) subject to an undertaking given by the owner of goods or his representative duly authorised in his behalf: --

(i) that the goods shall be kept in the office godown or other place within the State, belonging to the owner of the goods vehicle or boat and in the custody of such owner; and

(ii) that the goods shall not be delivered to the consignor, consignee or any other person without the orders of the said officer, and for this purpose the driver or any other person in charge of the goods vehicle or boat shall furnish an authorisation from the owner of the goods vehicle or boat authorising him to give such undertaking on his behalf.

(10) In case the goods are subject to speedy and natural decay and in the case of other goods, where no claim is made within the prescribed period, the said officer shall, subject to such conditions as may be prescribed sell such goods in open auction and remit the sale proceeds thereof in a Government Treasury:

Provided that before effecting the sale the said officer shall obtain the permission in writing of the next higher authority.

(11) Any person entitled to such sale proceeds shall, on application to the prescribed authority and upon sufficient proof, be paid the sale proceeds mentioned in sub-section (10) after deducting the expenses of the sale and other incidental charges and the amount of tax due under this Act, in respect of the sale or purchase of the goods in question.

Explanation-I.--For the purpose of this section, the expression said officer shall mean the officer in-charge of the check-post or barrier or the officer empowered under sub-section (2).

Explanation-II.--For the purpose of this section and section 37 B "goods vehicle" includes a motor vehicle vessel, animal and any

other form of conveyance.

"37B. Maintenance etc, of records by boat/goods vehicles.--

The owner or any other person in charge of a boat or goods vehicle shall carry with him;

(i) Bill of sale or delivery note or such other documents as may be prescribed; and

(ii) Log Book or, as the case may be, goods vehicle Record or Trip Sheet, relating to the goods under transport and containing such particulars as may be prescribed and shall submit to such officer as may be prescribed the documents aforesaid or copies thereof within such time as may be prescribed."

3. xxx xxx xxx :-

xxx xxx xxx

4. Amendment of the section 43 of Assam Act XIX of 1967 :-

In the principal Act, in section 43 after subsection (1), the following shall be inserted as proviso thereto, namely :--

"Provided that it shall not be necessary to make previous publication, as aforesaid, of any rules required to be made on the first occasion in order to give effect to the provisions of the Assam Purchase Tax (Amendment) Act, 1992".

5. Repeal and saving :-

(1) The Assam Purchase Tax (Amendment) Ordinance, 1992 (Assam Ordinance V of 1992) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the Ordinance so repealed shall be deemed to have been done or taken under the corresponding provision of this Act.