

Assam Sales Tax (Amendment) Act, 1992

03 of 1993

[11 February 1993]

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PREAMBLE

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ACT

further to amend the Assam Sales Tax Act, 1947.

Whereas it is expedient further to amend the Assam Sales Tax Act, 1947 (Assam Act XVII of 1947), hereinafter referred to as the principal Act.

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

1. Short title, extent and commencement :-

- (1) This Act may be called the Assam Sales 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 44B of Assam Act, XVII of 1947 :-

In the principal Act, for section 44 B and the marginal heading thereof, the following shall be substituted, namely :--

"44B. Power to inspect goods delivered to a carrier or bailee.--

Where goods are delivered to a carrier or 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 places any officer empowered by the State Government in this behalf, shall have power to enter into and search such office, shop, godown, vesselsreceptacle, vehicle or other place of business or 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 his name and address of the carrier or the bailee and the consignee."

3. Insertion of Section 44C, 44D in Assam Act. XVII of 1947

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In the principal Act, after section 44B as so substituted, the following shall be inserted as section 44C and 44D namely :--

"44C. Erection of checkpost 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, it may, by notification, direct the setting up of a Check-post or the erection of a barrier or both, at such 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 Govt. 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 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 purpose 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. Secretary to the Govt. of Assam, Legislative Department.

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 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 consigner 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 tax is paid or the security is furnished then the goods so detained shall be released forthwith.

- (5) The documents referred to in sub-section (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 vehicle or boat shall, if so required, give his name and address and 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 consignor or 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 vehicle 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 on this 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 consignee or any other person without the orders of the said officer, and for this purpose 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 condition 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 charge and the amount of sale 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 44D "goods vehicle" includes a motor vehicle, vessel, animal or any other form of conveyance.

44D. Maintenance etc. of records by boats/goods and vehicles.--

The owner or 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 Records 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."

4. Amendment of the section 52 of Assam Act XVII of 1947 :-

In the principal Act, in section 52, 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 Sales Tax (Amendment) Act, 1992.(Assam Ordinance IV of 1992)"

5. Repeal and saving :-

(1) The Assam Sale Tax (Amendment) Ordinance, 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 provisions of the Act.