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**Assam Value Added Tax (Amendment) Act, 2007****[28 March 2007]****CONTENTS**

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**Assam Value Added Tax (Amendment) Act, 2007****[28 March 2007]**

An Act further to amend the Assam Value Added Tax Act, 2003. WHEREAS it is expedient further to amend the Assam Value Added Tax Act, 2003, hereinafter referred to as the principal Act, in the manner hereinafter appearing; It is hereby enacted in the Fifty-eighth year of the Republic of India as follows:-

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

- (1) This Act may be called the Assam Value Added Tax (Amendment) Act, 2007.
- (2) It shall have the like extent as the principal Act,
- (3) It shall come into force at once.

**2. Amendment Of Section 3 :-**

In the principal Act, in section 3, in subsection (2), between the words "authorities" and "to", the words "in various capacities" shall be inserted.

**3. Amendment Of Section 26 :-**

In the principal Act, in section 26, after sub-section (2), a new sub-section (3) shall be inserted, namely:-

"(3) Subject to such conditions as it may impose, the Government may, if it is necessary so to do in the public interest, by notification in the Official Gazette by way of a scheme or otherwise, exempt a class of dealers or persons specified in the said notification from payment of the whole or any part of the penalty payable under the provisions of this section and such exemption shall take effect from the date of publication of the notification in the Official Gazette."

#### **4. Insertion Of Section 31B :-**

In the principal Act, after section 31A, a new section 31B shall be inserted, namely:-

"31B. Consumer Welfare Fund-(1) There shall be established by the Government a fund, to be called the Assam Consumer Welfare Fund.

(2) There shall be credited to the fund in such manner as may be prescribed,-

(a) an amount of rupees one lakh, to be initially paid by the Government by way of grant for the purpose of the fund; and

(b) all amount forfeited under sub-section (4) of section 31 and all penalty paid pursuant to sub-section (5) of the said section except any amount refunded under the said section after deducting therefrom the expenses of collection and recovery as determined by the Government.

(3) The moneys credited to the fund shall be utilised by the Government for the welfare of the consumers in accordance with such rules and the accounts and other relevant records in relation to the fund shall be maintained in such manner as may be prescribed."

#### **5. Amendment Of Section 54 :-**

In the principal Act, in section 54, in sub-section (1), in the existing proviso, the punctuation mark "." appearing at the end shall be substituted by punctuation mark ":" and thereafter the following provisos shall be inserted, namely:-

"Provided further that when exemption is granted in the form of remission, the dealer shall be entitled to retain the part or whole of tax collected by way of subsidy from the Government subject to maximum permissible monetary limit and/or time limit and other conditions as may be prescribed in the appropriate scheme:

Provided also that the Government may, if it is necessary so to do in the public interest, by notification in the Official Gazette, exempt a part of sale price specified in the said notification from payment of tax payable under the provision of the Act."

## **6. Insertion Of Section 62A :-**

In the principal Act, after section 62, a new section 62A shall be inserted, namely:-

"62A. Audit of accounts in certain circumstances- (1) If, at any stage of the proceedings before him, the prescribed authority, having regard to the nature and complexity of the accounts of the dealer and the interest of the revenue, is of the opinion that it is necessary so to do, he may, with the previous approval of the Commissioner, direct the dealer to get the accounts audited by an accountant, as defined in the Explanation below sub-section (3) of section 62 and nominated by the Commissioner in this behalf and to furnish a report of such audit in the prescribed form duly signed and verified by such accountant and setting forth such particulars as may be prescribed and such other particulars as the prescribed authority may require.

(2) The provision of sub-section (1) shall have effect notwithstanding that the accounts of the dealer have been audited under any other law for the time being in force or otherwise.

(3) Every report under sub-section (1) shall be furnished by the dealer to the prescribed authority within such period as may be specified by the prescribed authority:

Provided that the prescribed authority may, on an application made in this behalf by the dealer and for any good and sufficient reason, extend the said period by such further period or periods as he thinks fit; so, however, that the aggregate of the period originally fixed and the period or periods so extended shall not, in any case, exceed one hundred and eighty days from the date on which the direction under sub-section (1) is received by the dealer.

(4) The expenses of, and incidental to, any audit under sub-section (1) including the remuneration of the accountant shall be determined by the Commissioner and paid by the dealer and in default of such payment shall be recoverable from the assessee in the manner provided in section 43 of this Act for recovery of arrears of tax.

(5) The dealer shall be given an opportunity of being heard in respect of any material gathered on the basis of any audit under

sub-section (1) and proposed to be utilised for the purpose of assessment."

## **7. Insertion Of Section 71A :-**

In the principal Act, after section 71, a new section 71A shall be inserted, namely:-

"71A. Liability of the owner of the place or premises in certain cases-(1) Any dealer conducting exhibitions, exchange melas or any prize schemes for sales promotion or any caterer supplying food and services shall obtain a written permission from the Commissioner. The Commissioner may issue such permission subject to such conditions as may be specified in such permission. The dealer to whom the permission is issued shall exhibit the same at a conspicuous place where the exhibition or exchange mela or prize scheme is conducted. The owner of the premises where the exhibition, exchange mela or any prize schemes for sales promotion are conducted shall obtain a copy of the permission issued by the Commissioner and intimate the Commissioner concerned the particulars regarding the period during which the mela is conducted, the dealer conducting the mela and the conditions subject to which the premises are leased out for the conduct of such exhibition, exchange mela or prize schemes and any other relevant information. Where the owner of the premises fails to do so, he shall be jointly and severally liable for any tax that may become due on the sales of goods made in such exhibition, exchange mela or any prize schemes.

(2) A caterer supplying food and services in a place which is not his regular place of business shall obtain a written permission from the Commissioner. The Commissioner may issue such permission subject to such conditions as may be specified in such permission. The owner of the premises where such supply is made by the caterer shall obtain a copy of the permission issued by the Commissioner and intimate the prescribed authority concerned the particulars regarding the period during which the supply is so made. Where the owner of the premises fails to do so, he shall be jointly and severally liable for any tax that may become due on the sales of goods made in such catering."

## **8. Amendment Of Section 77 :-**

In the principal Act, in section 77,-

(i) in the marginal note, between the words "by" and "Rail", the

word and punctuation mark "road," shall be inserted;

(ii) in sub-section (2), in between the words "by" and "rail", the following word and punctuation mark "road," shall be inserted.

#### **9. Amendment Of Section 80 :-**

In the Principal Act, in section 80,-

(i) sub-section (2) shall be omitted;

(ii) in sub-section (3), in the first paragraph, in the end, the words and punctuation mark "or to the Commissioner, as the case may be" shall be omitted;

(iii) in the proviso to the sub-section (3), the words "or the State representative on behalf of the Commissioner" appearing between the words "appellant" and "had" shall be omitted;

(iv) in sub-section (5), the word "Commissioner" appearing between the words "the" and "a" shall be substituted by the words "concerned authority";

(v) in sub-section (6), the word "Commissioner" appearing between the words "the" and "with" shall be substituted by the words "concerned authority".

#### **10. Amendment Of Section 90 :-**

In the Principal Act, in section 90,-

(i) after the word and punctuation mark "rules thereunder,", the words, "the Commissioner" shall be inserted;

(ii) for the words "be liable to imposition of", the following shall be substituted, namely:-

"impose on him";

(iii) the word "to" appearing after the words and punctuation mark "continuing one," shall be omitted.

#### **11. Amendment Of Section 109 :-**

In the principal Act, in section 109, in sub-section (4), for the punctuation mark ".", the punctuation mark ":" shall be substituted and thereafter the following proviso shall be inserted, namely:-

"Provided further that when exemption is granted in the form of remission, the eligible unit shall be entitled to retain the part or whole of tax collected by way of subsidy from the Government subject to maximum permissible monetary limit and/or time limit and other conditions as may be prescribed in the appropriate scheme."

