



THE ASSAM GAZETTE

অসাধাৰণ
EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT :: LEGISLATIVE BRANCH

NOTIFICATION

The 7th September, 2010

No. LGL. 64/2006/16.— The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XXIX OF 2010

(Received the assent of the Governor on 31st August, 2010)

THE ASSAM ELECTRICITY DUTY (AMENDMENT) ACT, 2010

AN

ACT

further to amend the Assam Electricity Duty Act, 1964.

Preamble.

Whereas it is expedient further to amend the Assam Electricity Duty Act, 1964, hereinafter referred to as the principal Act, in the manner hereinafter appearing;

Assam
Act XX
of 1964.

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

**Short title, extent
and commence-
ment.**

1.(1) This Act may be called the Assam Electricity Duty (Amendment) Act, 2010.

(2) It shall have the like extent as the principal Act.

(3) It shall come into force at once.

**Amendment of
section 3.**

2. In the principal Act, in section 3,--

(i) in sub-section (1), in clause (a), the words "within the State or to any consumer outside the State" shall be omitted;

(ii) in sub-section (2),--

(a) in clause (b), for the punctuation mark ".", the punctuation mark ";" shall be substituted and after the punctuation mark ";" so substituted, the word "or" shall be inserted;

(b) after clause (b), a new clause (c) shall be inserted, namely:-

"(c) generated by the State Government for own use or consumption.";

(iii) after sub-section (3), a new sub-section (4) shall be inserted, namely :-

"(4) The State Government may, by notification in the Official Gazette, vary the rate of electricity duty under this Act and on such notification being issued, the rate of duty shall be deemed to have been amended accordingly:

Provided that the State Government shall not vary the rate of duty so as to enhance it, in any case, exceeding twenty paise per unit of energy."

Insertion of section 3A.

3. In the principal Act, after section 3, a new section 3A shall be inserted, namely:-

“3A. Composition of tax liability.-- Notwithstanding anything contained in this Act, the State Government may, by notification published in the Official Gazette and subject to such conditions and restrictions as it may specify therein, permit a person generating energy for own use or consumption to pay at his option in lieu of amount of electricity duty payable under the provisions of this Act by such person, an amount by way of composition as may be fixed by the State Government in such notification on the basis of capacity of the generator or some other basis.”

Insertion of section 5A.

4. In the principal Act, after section 5, a new section 5A shall be inserted, namely:-

“5A. Registration.-- (1) Every licensee or any person referred to in clause (c) of sub-section (1) of section 3 generating energy for own use or consumption shall obtain registration from inspecting officer having jurisdiction over such licensee or person.

(2) The application for registration shall be made in such manner and in such form and on payment of such fee as may be prescribed.

(3) The inspecting officer may, on receipt of an application and after such enquiry as he considers necessary, grant to the applicant a certificate of registration to such licensee or person .”

Substitution of section 6.

5. In the principal Act, for section 6, the following shall be substituted, namely:—

“6.(1) Records and returns.-- The Board or a licensee or a person generating energy for his own use or consumption shall maintain such record and in such form and in such manner as may be prescribed.

(2) Such Board, licensee, or the person shall submit return, in such form and in such manner as may be prescribed, to the inspecting officer having jurisdiction over such Board, licensee or person.”

Insertion of section 6A.

6. In the principal Act, after section 6, a new section 6A shall be inserted, namely:-

“6A.(1) Assessment.-- If no return in respect of any period is submitted by the Board, licensee or the person required to submit return under section 6 or if the return submitted by such Board, licensee or person appears to the inspecting officer to be incorrect or incomplete, such authority shall, after giving such Board, licensee or person, as the case may be, a reasonable opportunity of being heard, proceed to assess to the best of his judgment the amount of electricity duty payable under this Act by such Board, licensee or person.

(2) No assessment under this section shall be made after the expiry of eight years.

Explanation:- For the purpose of this section, "year" means the year commencing on the first day of April and ending on the last day of March."

Substitution of section 7

7. In the principal Act, for section 7, the following shall be substituted, namely:—

"7.(1) Inspecting officer and exercise of powers.-- The taxing authorities appointed by the State Government under section 3 of the Assam Value Added Tax Act, 2003, hereinafter referred to as VAT law, shall also be deemed to have been appointed for the purpose of the administration of this Act and the authorities competent to register, receive returns, assess or re-assess, recover and enforce payment of tax and impose penalty under VAT law, shall, within their local jurisdiction under the VAT law, be competent to register, receive returns, assess or re-assess, recover and enforce payment of duty including imposition of penalty due from the Board, licensee or any person whose place of business is located within such jurisdiction as if the electricity duty were a tax under the VAT law and the Board, licensee or person was a dealer, within the meaning of the VAT law carrying on business within such jurisdiction and for this purpose they may exercise all or any of the powers conferred upon them by or under the VAT law.

Assam
Act
VIII of
2003.

(2) Subject to the provisions of this Act and the rules made thereunder, the provisions of the Assam Value Added Tax Act, 2003 and the rules, orders or notifications made or issued thereunder relating to security, interest, assessments and re-assessments, recovery of tax, interest, penalty or any other sum including special mode of recovery, first charge, period of limitation, refund, retention of accounts, requirement to provide information, transfer of liability of any firm or Hindu undivided family to pay tax in the event of dissolution of such firm or partition of such family, inspection, search and seizure, appeals, revisions, references, refunds, offence and penalties, compounding of offences, power to call for information, bar to certain proceedings, indemnity, automation, treatment of documents furnished by dealer as confidential and other matters for which no specific provision has been made in this Act and the rules made thereunder, shall mutatis mutandis apply to the Board, licensee or any person in respect of electricity duty levied and payable under this Act, as if those provisions were mutatis mutandis incorporated in this Act and the rules framed and orders and notification issued under those provisions were mutatis mutandis framed or issued under the relevant provisions so incorporated under this Act."

Assam:
Act
VIII of
2003.

Substitution of
section 11

8. In the principal Act, for section 11, the following shall be substituted, namely:-

“11. Offences and prosecution.-- Whoever,—

- (a) being liable to pay duty under this Act, does not get himself registered;
- (b) fails to keep true and proper record or knowingly prepares or produces incorrect record;
- (c) fails to submit return, without any reasonable cause or submits a false or incorrect return;
- (d) fails to pay duty in accordance with the provision of the Act or fails to deposit any demand under the provision of the Act;
- (e) intentionally obstructs an inspecting officer in the exercise of his powers and duties under this Act and the rules made thereunder; or
- (f) willfully evades or attempts to evade duty leviable under this Act;
- (g) willfully acts in contravention of any provision of this Act or the rules made thereunder,—

shall, without prejudice to his liability to pay duty and other dues payable by him under this Act, on conviction before a Magistrate, be punished with simple imprisonment for a period which shall not be less than six months but may extend to three years and shall also be liable to pay a fine not exceeding fifty thousand rupees.”

MOHD. A. HAQUE,
Secretary to the Government of Assam,
Legislative Department, Dispur.