

ASSAM ACT No. XVI OF 1962

THE ASSAM PASSENGERS AND GOODS TAXATION ACT, 1962

(As passed by the Assembly)

Received the assent of the President on the 30th July 1962

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Act

to provide for the levy of a tax on Passengers and goods carried by road in motor vehicles or on inland water-ways by boats

Preamble. Whereas it is expedient to provide for the levy of a tax on passengers and goods carried by road or inland water-ways :

And whereas the previous sanction of the President of India has been obtained under the proviso to article 304(b) of the Constitution of India :

It is hereby enacted in the Thirteenth Year of the Republic of India as follows:—

Short title,
extend and
commence-
ment.

1. (1) This Act may be called the Assam Passengers and Goods Taxation Act, 1962.

(2) It extends to the whole of the State.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context—

(1) "Board" means the Assam Board of Revenue constituted under the Assam Board of Revenue Act, 1959 or under any statutory modification or re-enactment thereof ;

Assam Act
VIII of
1959.

(2) "Boat" means a vessel or water-craft propelled or pulled or towed by hand or steam or other mechanical power or any other device used or adapted to be used for the carriage of passengers or goods for hire or reward ;

(3) "Business" means the business of carrying passengers or goods in a taxable vehicle ;

- (4) "Commissioner" means the Commissioner appointed under section 7 ;
- (5) "Fare" includes freight and any sum payable for a season ticket or for the hire of a taxable vehicle ;
- (6) "Goods" include livestock and anything carried in a taxable vehicle but does not include—
- (i) living persons ;
 - (ii) personal luggage of passengers travelling in such vehicle when it is not charged ;
 - (iii) equipments ordinarily used with such vehicle ;
 - (iv) mineral and mineral ores ; and
 - (v) petroleum products ;
- (7) "Owner" means the owner of a taxable vehicle and includes—
- (a) the holder of a permit, if any, granted under the provisions of any law for the time being in force to ply such vehicle within the territorial limits of the State, or
 - (b) any person for the time being incharge of such vehicle ; or
 - (c) any person responsible for the management of the business of owner ; or
 - (d) any State Transport Undertaking as defined in section 68A of the Motor Vehicles Act, 1939 ;
- (8) "Motor Vehicle" means a public service vehicle or a transport vehicle owned by a public carrier, including a trailer when attached to any such vehicle, within the meaning of the Motor Vehicles Act, 1939 ;
- (9) "Passenger" means any person travelling in a taxable vehicle, but does not include a . employee of the owner travelling in the bona fide discharge of his duties in connection with such vehicle, or a Public Servant travelling for the performance of his duties under this Act ;

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

(11) "State" means the State of Assam ;

(12) "Taxable Vehicle" means either a boat or motor vehicle or both.

Levy of tax

3. (1) There shall be levied, charged and paid to the State Government a tax on all fares in respect of all passengers and goods carried in a taxable vehicle at the rate of ten Naya Paise per rupee value of the fare subject to the minimum of one Naya Paisa in any one case, the amount of tax being rounded to the next higher whole Naya Paisa.

Explanation.—(i) When passengers or goods are carried in a taxable vehicle and no fare has been charged, the tax shall be levied and paid as if such passengers or goods were carried at the normal rate prevalent on the route.

(ii) Where any fare is charged or paid in lump sum on account of a season ticket or as subscription or contribution for any privilege, right or facility which is combined with the right of a passenger or goods being carried in a taxable vehicle without any further payment or at a reduced charge, the tax shall be levied on the amount of such lump sum or on such amount as appears to the prescribed authority to be fair and equitable.

(2) Where passengers or goods are carried in a taxable vehicle from any place outside the State to any place within the State, or from any place within the State to any place outside the State, the tax shall be payable in respect of the distance covered within the State at the rate laid down in sub-section (1) and shall be calculated on such amount as distance covered in the State bears to the total distance of the journey.

Method of collection of tax.

4. The tax shall be collected by the owner and paid to the State Government in the prescribed manner:

Provided that in case of a boat or a transport vehicle owned by a public carrier the State Government

may accept a lump sum in lieu of the tax chargeable on fare in the manner prescribed.

Evidence of payment of tax. 5. Save as otherwise provided by this Act, no owner shall allow a passenger to travel or goods to be carried in a taxable vehicle unless a ticket or receipt, as the case may be, is issued by him in the prescribed form to donate that the tax has been paid.

Explanation.—If a journey begins outside the State, the tax shall become chargeable on entry into the State in the prescribed manner.

Keeping of accounts and submission of returns. 6. (1) An owner may be required to keep such accounts and to submit such returns at such intervals and to such authority as may be prescribed.

(2) If any owner fails, without reasonable cause, to submit any return or pay the tax due according to such return within fifteen days of the due date, the assessing authority may direct that such owner shall, by way of penalty, pay, in addition to the amount of tax payable by him, a sum not exceeding five rupees for each day of the period during which the default continues.

(3) Any penalty imposed under sub-section (2) shall be without prejudice to any punishment that may be imposed under the provision of section 22.

(4) If the prescribed authority is satisfied that the tax has not been correctly levied, charged and paid, he may, after giving the owner a reasonable opportunity of being heard, proceed to levy the amount of tax due and recover the same.

Taxing authority. 7 (1) The State Government may, for carrying out the purposes of this Act, appoint a Commissioner and such other persons to assist him as it may think fit.

(2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred, and perform such duties as may be required by or under this Act.

Taxing authority is a public servant. 8. All persons appointed under section 7 shall be deemed to the public servants within the meaning of section 21 of the Indian Penal Code, 1860. Act XLV of 1860.

Penalty for non-payment of tax. 9 If the prescribed authority is satisfied that any owner is liable to pay tax under the provisions of this Act in respect of any period but has failed to pay the tax, the said authority may, after giving the owner a reasonable opportunity of being heard, assess the amount of tax, if any, due from the owner, and also direct that the owner shall pay in the prescribed manner, by way of penalty, a sum not exceeding one and a half times the amount of the tax.

Exemption. 10. The State Government may, by general or special order and subject to specific conditions, if any, exempt, in the public interest, any owner or class of owners from the operation of all or any of the provisions of this Act.

Supply of time table and table of fares. 11. An owner shall, in the prescribed manner, furnish to the prescribed authority a table of fares and a table regulating timings of arrival and departure of a taxable vehicle and such other particulars as the prescribed authority may by order, from time to time, require.

Recovery of arrear of tax. 12. Any arrear of tax or penalty imposed under this Act shall be recoverable as an arrear of land revenue.

Tax of deceased payable by representative. 13. Where an owner dies before payment of the tax due under this Act, his executor, administrator or other legal representative shall be liable to pay, out of the estate of the deceased to the extent to which it is capable of meeting the charge.

Liability in case of discontinued firm or association. 14. Where the business carried on by a firm or an association of persons, other than a Company as defined in the Companies Act, 1956 and in respect of which tax is due under this Act, is discontinued or the association of persons is dissolved, the tax shall be levied upon and recovered from, jointly and severally, every person who at the time of such discontinuance or dissolution was a partner of such firm or member of such association; and all the provisions of this Act shall apply accordingly.

Power of entry and inspection. 15. The prescribed authority may enter and inspect any place ordinarily used by the owner for anchoring a boat or garaging a motor vehicle or keeping accounts of his business for the purpose of seeing or verifying whether the provisions of this Act or the rules framed thereunder are being complied with and countersign any documents during the course of such inspection.

Erection of check posts. 16. (1) If the State Government considers it necessary that with a view to prevent or check evasion of tax under this Act it is necessary so to do, it may by notification in the Official Gazette, 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 the prescribed authority, the owner shall cause a taxable vehicle to stop and remain stationary in order to enable the said authority to carry out any duty imposed by or under this Act and the said authority may for doing so enter and travel in such vehicle.

Restriction on the use of taxable vehicles in certain cases. 17. No taxable vehicle shall be plied in the State—
(a) in case any tax or penalty payable in respect thereof remains unpaid for more than

fifteen days, until such tax or penalty is paid, or

- (b) in case the returns required by section 6 have not been submitted, until the returns are submitted:

Provided that the prescribed authority may, if the owner proves to its satisfaction that the failure to submit the returns referred to in clause (b) was not deliberate, exempt such vehicle from the operation of this section.

Appeal to
the prescri-
bed autho-
rity.

18. (1) Any owner objecting to an order passed under this Act may, within thirty days from the date of the service of such order, appeal to the prescribed authority against such order, provided that this period may be extended by the prescribed authority for good and sufficient reasons to be recorded in writing:

Provided also that no appeal shall be entertained by such authority unless it is satisfied that the amount of tax assessed or penalty imposed has been paid:

Provided further that such authority, if satisfied that an owner is unable to pay the tax assessed, may, for reasons to be recorded in writing, entertain an appeal without such tax having been paid.

(2) In disposing of an appeal under sub-section (1) the appellate authority may—

(a) confirm, reduce, enhance or annul the assessment, or

(b) set aside the assessment and direct a fresh assessment after such enquiry as may be ordered, or

(c) confirm, reduce or annul the order of penalty.

(3) The order of the appellate authority shall be final except as provided in section 19 and section 20.

Revision by
Commis-
sioner.

19. (1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he considers that any order passed therein by any authority other than that appointed under sub-section (2) of section 7, is erroneous in so far as it is prejudicial to the interests of revenue, he may, after giving the owner an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such orders thereon as the circumstances of the case justify, including an order enhancing or modifying the assessment, or cancelling the assessment and directing a fresh assessment.

(2) In the case of any order other than an order to which sub-section (1) applies passed by any authority other than the Commissioner, he may, either of his own motion or on a petition by the owner for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such enquiry or cause such enquiry to be made, and subject to the provisions of this Act, may pass such order thereon, not being an order prejudicial to the owner, as he thinks fit.

(3) In the case of a petition for revision under sub-section (2) by an owner, the petition shall be made within ninety days from the date on which the order in question was communicated to him or the date on which he otherwise came to know of it, whichever is earlier :

Provided that the Commissioner before whom the petition is filed may admit it after the expiration of the period of ninety days if he is satisfied that for reasons beyond the control of the petitioner or for any other sufficient cause, it could not be filed within time.

(4) The Commissioner shall not revise any order under this section in the following cases:—

- (a) where an appeal against the order lies under section 18 or 20 but has not been made and the time within which such appeal may be made has not expired, or in the case of an appeal to the Board, the owner has not waived his right of appeal ; or
- (b) where the order is pending on appeal under section 18 ; or
- (c) where the order has been made the subject of an appeal to the Board.

Explanation.—An order by the Commissioner declining to interfere shall, for the purposes of this section, be deemed not to be an order prejudicial to an owner.

Appeal to
the Board
of Revenue:

20. (1) Any owner objecting to an order passed in appeal under section 18 or passed in revision under sub-section (1) of section 19 may appeal to the Board within sixty days of the date on which such order is communicated to him.

(2) The Board may admit an appeal after the expiration of the sixty days referred to in sub-section (1) if it is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within time.

(3) An appeal to the Board shall be in the prescribed form and shall be verified in the prescribed manner, and shall be accompanied by a fee of twenty-five rupees.

(4) The Board may, after giving the owner an opportunity of being heard, pass such orders thereon as it thinks fit, and shall communicate any such orders to the owner and to the Commissioner.

Reference 21. (1) Within sixty days from the date of service of any order under section 20, the owner may, by petition in writing require the Board to refer to the High Court any question of law arising out of such order of the Board or the Board may make such reference out of its own motion. Where the petition is made by an owner, it shall be accompanied by a fee of one hundred rupees.

(2) Within sixty days of the receipt of the petition under sub-section (1), the Board shall, subject to the provisions in sub-section (3), draw up, after such hearing and enquiry as may be considered necessary, a statement of the case and refer it with its opinion thereon to the High Court.

(3) The Board may reject the application under sub-section (1) and refuse to state the case on the ground that it is time-barred or otherwise incompetent, or that no question of law arises and the applicant may, within thirty days of such refusal withdraw the application and if he does so, the fee paid shall be refunded.

(4) Where the application under sub-section (1) is rejected on the ground that no question of law arises and where no action is taken by the applicant under sub-section (3), he may, within ninety days from the date of such rejection, apply to the High Court against the order rejecting the application, and if, upon receipt of such an application, the High Court is not satisfied with the correctness of the decision, it may require the Board to state the case and refer it and, on receipt of any such requisition, the Board shall state and refer the case accordingly.



(5) Where the application under sub-section (1) is rejected on the ground that it is time-barred and where no action is taken by the applicant under sub-section (3), he may, within ninety days of the date of such rejection, apply to the High Court against the order rejecting the application and if, upon receipt of such an application, the High Court is not satisfied with the correctness of the decision, it may require the Board to treat the application under sub-section (1) as made within time.

(6) Where the High Court is not satisfied that the statement in a case referred under this section is sufficient to enable it to determine the questions of law raised thereby, it may refer the case back to the Board to make such additions thereto or such alterations therein as may be directed and the Board shall thereupon comply with the directions and re-submit the case accordingly.

(7) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is based, and shall send to the Board a copy of such judgment under the seal of the High Court and signature of the Registrar, and the Board shall, on receipt of the copy of the judgment, order disposal of the case accordingly.

(8) Where a reference is made on the application of an owner, the costs shall be in the discretion of the High Court.

(9) Notwithstanding that a reference has been made under this section to the High Court, payment of tax shall not be stayed pending disposal of such reference; but where the amount of tax is reduced as the result of the reference, the excess shall be refunded in accordance with the provisions of this Act.

(10) Section 5 of the Indian Limitation Act, 1908 Act IX of shall apply to an application to the High Court by 1908.
an owner under this section.

Offences and penalties.

22. (1) Whoever—

- (a) fails to pay the tax due from him within the prescribed period; or
- (b) fraudulently or wilfully evades the payment of any tax due under this Act; or

(c) allows any passenger to travel without a ticket or goods to be carried without issuing a receipt in a taxable vehicle as required under section 5 ; or

(d) obstructs any prescribed authority from making entry and inspection under section 15 or sub-section (2) of section 16 ; or

(e) uses any taxable vehicle in contravention of section 17 ; or

(f) contravenes any other provision of this Act or the rules made thereunder shall be liable, on conviction, to a fine which may extend to one thousand rupees and when the offence is a continuing one on a subsequent conviction to a fine not exceeding twenty-five rupees for each day of the continuance of the offence.

(2) No Court shall take cognizance of any offence under this Act or the rules framed thereunder, except on a complaint in writing by the prescribed authority, and no Court inferior to that of a Magistrate of the First Class shall try any such offence.

Power to compound offences.

23. (1) The prescribed authority may, at any time, accept from any person who has committed an offence under section 22, by way of composition of offence, a sum of money not exceeding one thousand rupees or double the amount of tax involved, whichever is greater, in addition to the tax to be recovered.

(2) On payment of such sum of money as may be determined under sub-section (1), the prescribed authority shall, where necessary, report to the Court that the offence has been compounded and thereafter no further proceedings under section 22 shall be taken against the offender in respect of the same offence and the said Court shall discharge or acquit the accused, as the case may be.

Bar to proceedings.

24. No prosecution shall lie against any person authorised under this Act, for anything done or purported to have been done in good faith under this Act or the rules made thereunder.

Exclusion of jurisdiction of Civil Courts

25. No Civil Court shall have jurisdiction in any matter which the State Government or any prescribed authority is empowered by this Act or the rules made thereunder to dispose of or take cognizance of and regarding the manner in which the State Government or any prescribed authority may exercise any power vested in it by or under this Act or the rules made thereunder.

Refunds

26. The prescribed authority shall, in the prescribed manner, refund to an owner applying in this behalf, any amount of tax paid by such owner in excess of the amount due from him under this Act.

Delegation of powers. 27. The Commissioner may subject to such restrictions and conditions as may be prescribed, delegate, by notification in the Official Gazette, any of his powers under this Act to any person appointed under section 7 to assist him.

Power to make rules. 28. (1) The State Government may, make rules, consistent with the provisions of this Act, for securing the payment of tax and generally for the purposes of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the State Government may make rules—

- (a) prescribing the manner in which and the intervals at which tax shall be paid under section 3 and section 4 ;
- (b) prescribing the authority or authorities for the purpose of carrying out any function under any of the provisions of this Act ;
- (c) prescribing the forms of tickets and receipts under section 5 ;
- (d) prescribing the manner of payment of tax under section 4 and penalty under section 9 ;
- (e) prescribing the manner of exhibiting the table of fares and the time-table under section 11 ;
- (f) prescribing the manner in which an appeal petition may be filed under section 18 or section 20 ;
- (g) prescribing the manner in which a revision application may be preferred under section 19 ;
- (h) prescribing the manner in which a reference petition may be made under section 21 ;
- (i) prescribing the manner in which refund under section 26 shall be made ; and
- (j) providing for any other matter for which rules can be or may be prescribed.

(3) All rules under this section shall be laid for not less than fourteen days before the Assam Legislative Assembly as soon as possible after they are made and shall be subject to such modification as the Legislative Assembly may make during the session in which they are so laid or the session immediately following.