

THE ASSAM (SALES OF PETROLEUM AND PETROLEUM
PRODUCTS, INCLUDING MOTOR SPIRIT AND
LUBRICANTS) TAXATION ACT, 1955

ASSAM ACT IX OF 1956

(Passed by the Assembly)

(Received the assent of the President on the 26th March, 1956)

(Published in the Assam Gazette, Extraordinary, dated the 3rd
April, 1956)

An

Act

to repeal the Assam Sales of Motor Spirit and Lubricants
Taxation Act, 1939 (Assam Act IV of 1939) and to re-enact one
to impose tax on sales of Petroleum products, including Motor
spirit and Lubricants for the purpose of making an addition
to the public revenue.

Preamble.—Whereas it is expedient to repeal the Assam
Sales of Motor Spirit and Lubricants Taxation Act, 1939 (Assam
Act IV of 1939) and to re-enact one to impose tax on sales
Petroleum and Petroleum products, including Motor Spirit and
Lubricants for the purpose of making an addition to the public
revenue ;

It is hereby enacted in the Sixth year of the Republic of
India as follows :

1. Short title, extent and commencement.—(1) This Act
may be called the Assam (Sales of Petroleum and Petroleum
products, including Motor Spirit and Lubricants) Taxation Act,
1955.

(2) It extends to the whole of Assam.

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

NOTES

This Act was brought into force vide Notification. FTX. 149/55/44 dated
28.4.56 with effect from 1. 5. 56.

2. Definition.—In this Act unless there is anything repug-
nant 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 re-enactment or modification thereof ;

LEGISLATIVE HISTORY

This clause was inserted by Assam Act XXVI of 1962 with effect from
11.9.62.

“(1A)” Business” includes—

(i) any trade, commerce or manufacture, or any adventure or concern in the nature of trade, commerce or manufacture, whether or not such trade, commerce, manufacture, adventure or concern is carried on with the motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure or concern ; and

(ii) any transaction in connection with or incidental or ancillary to, such trade, commerce, manufacture, adventure or concern.

LEGISLATIVE HISTORY

Clause (1A) was inserted by Assam Act XXIII of 1977 with effect from 15.12. 1977.

(2) “Commissioner” means the Commissioner appointed under Section 5.

LEGISLATIVE HISTORY

This clause was originally numbered as clause (1) but it was later renumbered as clause (2) by Assam Act XXVI of 1962 with effect from 11.9.1962.

(3) “Crude oil” means Crude oil as defined in Section 14 of the Central Sales Tax Act, 1956 (Central Act 74 of 1956).”

LEGISLATIVE HISTORY

The following was inserted by Assam Act X of 1960 with effect from 1.4.1960 as clause (1A): “Crude oil” means crude petroleum in its natural state.” It was later renumbered as clause (3) by Assam Act XXVI of 1962 with effect from 11.9.1962. It was substituted by the present clause (3) by Assam Act XXIII of 1977.

(4) “dealer” means any person who carries on the business of selling taxable goods in Assam.

Explanation :— The manager or agent of a dealer who resides outside Assam and carries on the business of selling taxable goods in Assam shall in respect of such business be deemed to be a dealer for the purpose of this Act.

LEGISLATIVE HISTORY

This clause originally numbered as clause (2) read as follows :—

“(2) ‘Dealer’ means any person who carries on the business of selling or supplying motor spirit or lubricant or both in the State of Assam whether for commission, remuneration or otherwise and includes a manufacturer or any society, club or association which sells or supplies motor spirit or lubricant or both to its members.

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Explanation :— The manager or agent of a dealer who resides outside the State and carries on the business of selling or supplying motor spirit or lubricants in the State, shall in respect of such business be a dealer for the purposes of this Act.”

It was substituted by Assam Act XVII of 1961 with effect from 1.6.1961 by the following :—

“(2) ‘Dealer’ means any person who sells taxable goods manufactured, made or processed by him in Assam, or brought by him into Assam from any place outside Assam for the purpose of sale in Assam.

Explanation.— The manager or agent of a dealer who resides outside the State and sells taxable goods brought by him into Assam from any place outside Assam shall in respect of such business be a dealer for the purpose of the Act.”

It was renumbered as clause (4) and the following clause was substituted for the same by Assam Act XXVI of 1962 with effect from 11.9.62 :

“(4) ‘Dealer’ means any person who sells taxable goods manufactured made or processed by him in Assam, or brought by him into Assam, or obtained by him in Assam otherwise than by purchase.

Explanation.— The manager or agent of a dealer who resides outside Assam and sells taxable goods brought by him into Assam from any place outside Assam shall, in respect of such business, be a dealer for the purpose of the Act.

It was substituted by present clause (4) by Assam Act XXIII of 1977.

(5) ‘Government’ means the State Government of Assam ;

LEGISLATIVE HISTORY

This clause was originally numbered (3). It was renumbered by Assam Act XXVI of 1962 with effect from 11.9.1962.

(6) ‘Lubricant’ means and shall be deemed always to have meant any form of oil or other lubricating substance primarily used for lubricating internal machinery or the external parts and fittings of motor vehicles, stationary internal combustion engines, steam turbines or engines, power pumps, refrigerators dynamos and other machinery and shall include all forms of spindle oils, cutting oils and hydraulic brake fluids.

LEGISLATIVE HISTORY

Clause (6) which was originally numbered as clause (4) read as follows :—

“(4) ‘Lubricant’ means any form of oil, grease or other lubricating substance used for lubricating the internal machinery of automatives or stationary internal combustion engines ;”

It was substituted by the present clause by Assam Act II of 1957 with effect from 1. 4. 57.

It was renumbered as clause (6) by Assam Act XXVI of 1962 with effect from 11. 9. 62.

(7) 'Motor Spirit' means any substance which by itself or in admixture with other substances is ordinarily used directly or indirectly to provide reasonably efficient fuel for automotive or stationary internal combustion engines, and includes petrol, diesel oil and other internal combustion oils but does not include furnace oil, coal or charcoal ;

LEGISLATIVE HISTORY

This clause which originally read as clause (5) was renumbered as clause (7) by Assam Act XXVI of 1962 with effect from 11. 9. 1962 and in clause (7) as so renumbered, the word "Kerosene" was deleted by Assam Act XVII of 1963 with effect from 1. 8. 63.

(8) "Person" means any individual, or association or body of individuals, and includes a Department of any Government, a Hindu undivided or joint family, a firm and a company, whether incorporated or not ;

LEGISLATIVE HISTORY

This clause which was originally numbered as clause (6) was renumbered as clause (8) by Assam Act XXVI of 1962 with effect from 11. 9. 62.

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

LEGISLATIVE HISTORY

It was originally clause (7). It was renumbered as clause (9) by Assam Act XXVI of 1962 with effect from 11. 9. 62.

(10) "Sale" with all its grammatical variations and cognate expressions means any transfer of property in goods by any person for cash or deferred payment or other valuable consideration :

Provided that any shortage in excess of one per centum of the quantities of motor spirit received into stock by a dealer for sale shall, unless the contrary is proved, be deemed to be a sale for purposes of this Act ;

LEGISLATIVE HISTORY

The following proviso to the aforesaid clause was deleted by Assam Act 1 of 1957 with effect from 1.10.57.

"Provided further that any use of motor spirit or lubricant or both by a dealer from his stock shall be deemed to be a sale for the purposes of this Act and ;"

This clause was originally numbered as clause (8). It was renumbered as clause (10) by Assam Act XVI of 1962 with effect from 11.9.62.

(10A) "Sale price" used in relation to any dealer means the amount of money consideration for sale of taxable goods less

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any sum allowed as cash discount according to ordinary trade practice, but including any sum charged for containers or other materials used in packing of such goods.

LEGISLATIVE HISTORY

Clause (10A) was inserted by Assam Act XXIII of 1977 with effect from 15.12.1977.

(11) "Taxable goods" means such goods as are specified in sub-section (1) of section 3 of the Act.

LEGISLATIVE HISTORY

It was inserted as clause (8A) by Assam Act XVII of 1961 with effect from 1.6.61 and was renumbered as clause (11) by Assam Act XXVI of 1962 with effect from 11.9.1962.

(11A) "Turnover" used in relation to any period means the aggregate of the sale prices or parts of sale prices recoverable by a dealer during such period after deducting—

(i) the amount, if any, refunded by him in respect of any taxable goods and their containers returned by purchasers within a period of three months from the date of delivery of the goods.

(ii) from the resultant balance an amount arrived at by applying the following formula—

$$\frac{\text{Rate of Tax X Resultant balance as 'mentioned'}}{100 \text{ plus rate of tax}}$$

100 plus rate of tax

Explanation.—Where the turnover of a dealer is taxable at different rates, the aforesaid formula shall be applied separately in respect of each part of the turnover liable to a different rate of tax.

LEGISLATIVE HISTORY

Clause (11A) was inserted by Assam Act XXIII of 1977 with effect from 15.12.1977.

(12) "Year" means the financial year.

LEGISLATIVE HISTORY

This clause originally appeared as clause (9). It was renumbered as clause (12) by Assam Act XXVI of 1962 with effect from 11.9.62.

3. Liability to tax—

(1) There shall be levied and collected from every dealer a tax on sales of the following goods at the rates specified below :—

- (i) Motor Spirit (except diesel oil and internal combustion oil other than petrol) Thirty paise per litre
- (ii) Lubricants Ten paise per litre.
- (iii) Diesel oil and other internal combustion oil other than petrol Eleven paise per litre.
- (iv) (a) Superior Kerosene not ordinarily used as an internal combustion oil Three paise per litre
- (b) Inferior Kerosene not ordinarily used an internal combustion oil Two paise per litre.
- (v) Crude oil Four paise in the rupee.
- (vi) Petroleum coke Four paise in the rupee.
- (viA) Petroleum gas and Natural gas Seven paise in the rupee.
- (vii) All other products obtained as derivatives of petroleum and/or Natural gas Seven paise in the rupee.

Explanation:—The tax leviable under this sub-section in respect of the sale of goods specified in items (v) to (vii) shall be payable by the dealer on his turnover at the rate specified against each item.

(2) Nothing in sub-section (1) shall be deemed to render any dealer liable to tax on the sale of taxable goods where such sale takes place:—

- (i) outside the State of Assam ;
- (ii) in the course of the import into or export out of the territory of India ; or
- (iii) in the course of inter-State trade or commerce as laid down in Section 3 of the Central Sales Tax Act, 1956.

(3) Any shortage in excess of one per cent of the quantities of each consignment of motor spirit received into stock by a dealer for sale shall, unless the contrary is proved, be presumed to be due to sale for the purpose of sub-section (1), and the tax shall be levied and collected from the dealer accordingly.

(4) The tax under sub-section (1) shall be levied at the stage of first sale of the taxable goods in Assam :

Provided that where any dealer claims that any sale of taxable goods by him is not the first sale of the said goods in Assam, the burden of proof of the same shall be on the dealer.

LEGISLATIVE HISTORY

Originally section 3 read as follows:—

(1) There shall be levied and collected from every dealer a tax on sales of motor spirit (except diesel oil and internal combustion oils other than petrol) and of lubricants at the rate of five and six annas respectively per gallon, of diesel oil and other internal combustion oils a tax at the rate of three annas per gallon :

Provided that no tax shall be levied on sales of motor spirit and lubricants to a registered dealer for the purpose of re-sale in the State.

(2) Nothing in sub-section (1) shall be deemed to render any dealer liable to tax on the sale of motor spirit or lubricant where such sale takes place :—

- (i) outside the State of Assam ;
- (ii) in the course of the import of the motor spirit or lubricant or any one or both of them into, or export of the motor spirit or lubricant or any one or both of them out of the territory of India ; or
- (iii) in the course of inter-State trade or commerce except in so far as Parliament may by law otherwise provide ;

(3) Any shortage in excess of one per cent of the quantities of each consignment of motor spirit received into stock by a dealer for sale shall, unless the contrary is proved be presumed to be due to sale for the purpose of sub-section (1), and the tax shall be levied and collected from the dealer accordingly.

By Assam Act V of 1957 the following amendments were made with effect from 1. 10.57 :—

(a) in sub-section (1), for the words “five and six annas” and “three annas”, the words “thirty-two and thirty-eight naye paise” and “nineteen naye paise” respectively were substituted.

(b) for clause (iii) of sub-section (2), the following was substituted. namely :—

“(iii) in the course of inter-State trade or commerce as laid down in Section 3 of the Central Sales Tax Act, 1956.”

The following further amendments were made by the Assam Act X of 1960 with effect from 1. 4. 60 :—

“(1) For sub-section (1), the following clause was substituted, namely :—

“(1) There shall be levied and collected from every dealer a tax on the following goods at the rates specified below :—

- (i) motor spirit (except diesel oil and internal combustion oils other than petrol) ... Seven naye paise per litre,
- (ii) Lubricants Nine naye paise per litre.
- (iii) diesel oil and other internal combustion oils ... Five naye paise per litre.
- (iv) crude oil One naye paise per litre.

Provided that no tax shall be levied on sales of motor spirit, lubricant and crude oil to a registered dealer for the purpose of resale in the State."

(2) For clause (ii) of sub-section (2), the following was substituted, namely—

"(ii) in the course of the import into or export out of the territory of India ; or"

By Assam Act XVII of 1961, the following amendments were made in section 3 with effect from 1. 6. 61 :—

"(1) In sub-section (1)—

(a) in clause (1), for the word 'Seven', the word "eight" was substituted ;

(b) in clause (iii), for the word "five", the word "seven" was substituted.

(2) the proviso to sub-section (1) was deleted."

For sub-section (1) the following was substituted by Assam Act XVII of 1963 with effect from 11. 6. 63 :—

"(1) There shall be levied and collected from every dealer a tax on sales of the following goods at the rates specified below :—

- (i) motor spirit (except diesel oil and internal combustion oils other than petrol) Ten naye paise per litre.
- (ii) lubricantsNine naye paise per litre.
- (iii) diesel oil and other internal combustion oils other than petrol.....Seven naye paise per litre.
- (iv) kerosene not ordinarily used as an internal combustion oil Two naye paise per litre.
- (v) crude oil One naye paise per litre."

In sub-section (1) for item No. (i), (ii) and (iii), the following were substituted by Assam Act IX of 1966 with effect from 1. 4. 66 :—

- "(i) Motor spirit (except diesel oil and internal combustion oils other than petrol) Thirteen paise per litre.
- (ii) Lubricants Ten paise per litre.
- (iii) Diesel oil and other internal combustion oil other than petrol Nine paise per litre."

By Assam Act XV of 1967, in sub-section (1) of section 3, (a). against item (i), for the words "Thirteen paise" the words "Fifteen paise" were substituted with effect from 25. 10. 67 ; (b). against item (ii), for the words "Nine paise" the words "Eleven paise" were substituted.

By Assam Act XI of 1968 the following amendments were made with effect from 1. 4. 69 :—

(1) For the existing item (iv) the following was substituted with effect from 1. 4. 69 :—

- "(iv): (a) Superior kerosene not ordinarily used as an internal combustion oil Three paise per litre.

- (b) Inferior Kerosene not ordinarily used as an internal combustion oil Two paise per litre.”
- (2) Item No. (vi) and (vii) were inserted after item No. (v)—
- “(vi) Petroleum coke, Petroleum gas and Natural gas Seven paise in the rupee.
- (vii) All other products obtained as derivatives of petroleum and/or Natural gas Seven paise in the rupee.”

By Assam Act XV of 1974, in sub-section (1), against item No. (i) for the word “fifteen” the word “thirty” was substituted with effect from 16.4.1974.

By Assam Act XXIII of 1977, the following amendments were made with effect from 15.12.1977 :—

- 1) in sub-section (1) against item (v) for the words “one paise per litre” the words “Four paise in the rupee” were substituted ;
- 2) At the end of sub-section (1), the present explanation was inserted;
- 3) after sub-section (3), the present sub-section (4) was inserted.

Item No. (vi) was substituted by the present items (vi) & (viA) by Assam Act X of 1977 with retrospective effect from 1.4.69. In the substituted item (vi), the word ‘three’ was substituted by ‘four’ by the same amendment Act with retrospective effect from 1.7.1975.

NOTES

Sale of “Petroleum Coke” was made taxable under the Act with effect from 1-4-69 at the rate of 7 paise in the rupee by Assam Act XI of 1968.

In *India Carbon Ltd. v Supdt of Taxes, Gauhati (1971) 28 STC 603* the Supreme Court held that Petroleum Coke is one of the forms of coke and is one of the declared goods and the State is entitled to levy tax under the Act on the sale of petroleum coke only at a rate not exceeding that given in section 15 (a) of the Central Sales Tax Act, 1956.

3A. * * * *

LEGISLATIVE HISTORY

Section 3A was first inserted by Assam (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricants) Taxation (Amendment) Ordinance, 1971 with a view to levy surcharge on Sales-tax with effect from 4th December, 1971 for the purpose of raising additional resources for relief of evacuees from BanglaDesh. It was put on Statute book by the Assam (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricants) Taxation (Amendment) Act, 1971 (Assam Act V of 1972) and the said ordinance was repealed. It was deleted by the Assam Repealing

Act, 1973 (Assam Act VII of 1973) with effect from 1.4.73. Section 3A prior to deletion by the Assam Repealing Act, 1973 read as follows :

"3A. Surcharge on sales.—(1) Subject to the provisions of this section, every dealer shall be liable to pay, in addition to tax under Section 3 and any other dues payable under any law for the time being in force, a surcharge, hereinafter referred to as Sales Surcharge, on his sales of taxable goods.

(2) The rate of Sales Surcharge on any sale shall be one per centum of the amounts of tax payable under this Act in respect of the said sale :

Provided that this surcharge shall not apply in respect of goods declared to be of special importance under Section 14 of the Central Sales Tax Act, 1956, if the ceiling of rates as prescribed under Section 15A of the aforesaid Act has been reached ;

Provided further that the amount of Sales Surcharge payable by a dealer for any return period as prescribed under sub-section (1) of Section 8 shall be rounded off to the nearest rupee.

(3) The Sales Surcharge shall be payable as if it were a tax under Section 3, and the provisions of this Act including the rules thereunder shall accordingly apply ; and the authorities for the time being empowered to collect and enforce payment of the said tax under Section 3 shall, unless otherwise provided for by or under this Act, within their respective jurisdiction for the purpose of the said tax accordingly collect and enforce payment of the Sales Surcharge :

Provided that the State Government may, for facilitating implementation, by notification in the official Gazette, direct that in any case or class of cases the provisions of this Act including the rules thereunder shall apply subject to such indications not inconsistent with the provisions of this section and as may be specified in such notification.

(4) Notwithstanding anything contained in sub-section (3), the State Government may make rules generally for securing the payment of the Sales Surcharge and carrying into effect the provisions of sub-section (1) and (2) and in particular for ensuring the proper maintenance and rendering of accounts of the Sales Surcharge."

In exercise of the powers conferred by proviso to sub-section (3) of section 3A of the Assam (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricants) Taxation Act, 1955, hereinafter called the Act, the Governor of Assam was pleased to direct that the provisions of the Act and the rules thereunder would apply in relation to the Sales Surcharge payable under Sub-section (1) of Section 3A of the Act subject to the following indications :

- (1) The amount of Sales Surcharge due from a dealer for any period shall be indicated by him separately in his return for the period in Form IV of the Rules under the Act.
- (2) The amount of Sales Surcharge collected/demanded shall be indicated separately in the Assessment order in Form V-B, notice of demand in Form VII, Daily Collection Register in Form IX and Assessment, Demand and Collection Register in Form X of the Rules under the Act.

- (3) An challan in Form VIII of the Rules under the Act by means of which the sales surcharge is paid shall not be used for depositing any other dues and shall contain the word "Surcharge" for the word "Tax" whenever it occurs.

4. **Exemptions.**—Notwithstanding anything contained in this Act, the Government may without conditions or upon conditions exempt any dealer from liability to pay any tax under this Act or may refund any tax or any portion thereof, collected under this Act ;

Provided that nothing shall be construed to oblige or impose a duty on the Government at any time to exercise the powers under this section conferred upon it.

5. **Taxing Authorities.**—(1) The State Government may, for carrying out the purposes of this Act, appoint a Commissioner of Taxes, and such other persons to assist him as it thinks 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.

(3) All persons appointed under sub-section (1) shall be deemed to be public servants within the meaning of section 21 of the India Penal Code (Act XLV of 1860).

6. **Compulsory Registration.**—(1) No dealer shall, while being liable to pay tax under the provisions of this Act, carry on business as a dealer unless he has been registered and possesses a certificate of registration.

(2) Every dealer required by sub-section (1) to be registered shall apply for registration to the Commissioner in the prescribed manner, and obtain a certificate of registration.

(3) On receipt of an application under sub-section (2), the Commissioner shall, if he is satisfied after such enquiry as may be deemed necessary that the application is in order, register the applicant.

7. **Registration by Commissioner.**—(1) The Commissioner may, in addition to taking any other action under the provisions of this Act, require any dealer who, in his opinion, is liable to registration but has not made an application in this behalf, to apply for registration and register him ;

Provided that no action under this sub-section shall be taken unless the Commissioner has given notice to the dealer of his intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Registrations made under sub-section (1) shall take effect as if these had been made on the dealer's application under sub-section (2) of section 6.

8. **Certificate of Registration.**—(1) A dealer registered under section 6 or section 7 shall be granted certificate of registration in such form as may be prescribed, which shall specify the class or classes of goods in which at the time of the grant of the said certificate the dealer carries on business, and such other particulars as may be prescribed.

(2) The Commissioner may, on petition or otherwise, cancel or amend from time to time any certificate of registration.

(3) The Commissioner shall cancel the certificate of registration when—

- (a) the business in respect of which the certificate was issued has been discontinued or transferred, or
- (b) the liability to pay tax in respect of such business has ceased under this Act;

9. **Suspension or cancellation of registration certificate.**—

(1) The Commissioner may suspend, for such period as he considers fit, or cancel any certificate of registration where:—

- (a) any tax payable under section 3 is not duly paid by the holder of such certificate; or
- (b) there is any breach of any of the conditions subject to which a registration certificate is granted or renewed; or
- (c) the holder of the registration certificate has been convicted under the provisions of the Act;

Provided that no order prejudicial to a dealer shall be passed under this sub-section without giving him a reasonable opportunity of being heard;

Provided further that such cancellation shall not absolve the holder of the registration certificate from his liability to pay tax and other dues under the Act nor bar other action as may be taken against him under the Act;

(2) The holder of a registration certificate shall not be entitled to any compensation for any loss or damage directly or indirectly suffered by him for its suspension or cancellation under sub-section (1).

10. **Returns.**—(1) Every registered dealer shall furnish such returns of his turnover by such dates and to such authorities as may be prescribed.

(2) In the case of any other dealer whose business, in the opinion of the Commissioner, is such as to render him liable to pay tax under this Act for any year or part thereof, the Commissioner may serve within three years of the completion of that year a notice in the prescribed form upon him requiring him to furnish a return of his turnover ; and such dealer shall thereupon furnish the return within the period and to the authority mentioned in the notice.

(3) If any dealer discovers any omission or other error in any return furnished by him either under sub-section (1) or sub-section (2), he may furnish a revised return at any time before assessment is made on the original return.

(4) No return submitted under this section shall be valid unless it is accompanied by a treasury receipt showing payment of the tax due as provided in sub-section (2) of Section 20.

LEGISLATIVE HISTORY

Originally section 10 read as follows :—

“10 Returns.—Every person registered under this Act shall submit such return or returns and for such periods and to such authority as may be prescribed.”

It was substituted by Assam Act XVII of 1963 with effect from 1. 4. 63.

11. Assessment—(1) At the close of the quarter or at the closure of the business during that quarter, if the Commissioner is satisfied that the returns furnished under section 10 in respect of that quarter are correct and complete, he shall, by an order in writing, assess the dealer and determine the tax payable by him on the basis of such returns.

(2) If the Commissioner is not satisfied that a return furnished under section 10 is correct and complete, he shall serve on the dealer a notice requiring him, on the date, and at the hour and place specified therein, either to attend in person or to produce or cause to be produced any evidence on which he may rely in support of his return.

(3) On the day specified in the notice under sub-section (2) or as soon afterwards as may be, the Commissioner, after hearing such evidence as the Commissioner may require, shall, by an order in writing, assess the dealer and determine the tax payable by him on such assessment.

(4) If a dealer fails to make a return as required by section 10 or having made the return, fails to comply with all the terms of the notice issued under sub-section (2) of this section, the Commissioner shall, by an order in writing, assess to the best of his judgment the dealer, and determine the tax payable by him on the basis of such assessment ;

Provided that before making assessment the Commissioner may allow the dealer such further time as he thinks fit to make the return or comply with the terms of the notice issued under sub-section(2) of this section.

LEGISLATIVE HISTORY

Sub-section (1) was substituted Act XV of 1967 with effect from 25.10.67 for the following :—

“(1) If the Commissioner is satisfied that a return furnished under section 10 in respect of any period is correct and complete, he shall by an order in writing, assess the dealer and determine the tax payable by him on the basis of such return.”

12. Cancellation of assessment.—Where a dealer, in the case of an assessment completed under sub-section (4) of section 11, satisfies the Commissioner, within one month from the date of issue of a notice of demand as hereinafter provided, that he was prevented by sufficient cause from making the return required by section 10 or that he did not receive the notice issued under sub-section (2) of section 11 or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying with the terms of the notice, the Commissioner shall cancel the assessment and make a fresh assessment in accordance with the provisions of section II.

13. Assessment and penalty in case of evasion by un-registered persons.—If upon information which has come into his possession, the Commissioner is satisfied that any person while being liable to pay tax under this Act in respect of any period, has nevertheless wilfully failed to apply for registration and to pay the tax, he shall, after giving the person a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of tax, if any, due from him in respect of such period and all subsequent periods and the Commissioner may also direct that in addition to the amount so assessed, a sum not exceeding that amount shall be recovered from the defaulter by way of penalty.

14. Assessment and penalty in case of evasion by registered persons.—If upon information which has come into his possession, the Commissioner is satisfied that any person registered under this Act has not paid the amount of tax due from him or a part thereof for any period, he shall proceed against such person in the manner laid down in section 13.

14A. Rectification or orders.—(1) The authority which made an assessment or passed an order on appeal or revision in respect thereof, may, at any time within three years from the date of such assessment or order and of its own motion, rectify any such mistake apparent from the records of the case, and shall, within the like period, rectify any such mistake as has been brought to its notice by a dealer :

Provided that no such rectification shall be made having the effect of enhancing the assessment unless the authority concerned has given notice of its intention so to do and has allowed the dealer a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, a refund shall be due to the dealer.

(3) Where any such rectification has the effect of enhancing the assessment, a notice of demand shall be issued for the sum payable.

LEGISLATIVE HISTORY

Section 14A was inserted Assam Act XVII of 1963 with effect from 1.4.63.

15. Recoveries.—Any sum due under this Act shall be recoverable as an arrear of land revenue.

16. Penalties.—(1) If the Commissioner, in the course of any proceeding under this Act is satisfied that any dealer :—(a) has without reasonable cause, failed to furnish the return which he was required to furnish under section 10 or section 13, or has, without reasonable cause, failed to furnish it within the time allowed and in the manner required, or (b) has without reasonable cause, failed to comply with a notice under sub-section (2) of section 11, or (c) has concealed the particulars of his sales or deliberately furnished inaccurate particulars of such sales, or (d) has evaded in any way the liability to pay tax, he may direct that such dealer shall pay by way of

penalty, in addition to the tax payable by him, the sum not exceeding one and a half times that amount.

(2) No order under sub-section (1) shall be made unless the dealer has been heard or has been given reasonable opportunity of being heard.

(3) No penalty under this section shall be imposed by an officer appointed to assist the Commissioner without the previous sanction of the Commissioner.

17. Assessment not to bar prosecution or penalties.—Any assessment made under this Act shall be without prejudice to any prosecution or penalty instituted or imposed under the provisions of this Act.

18. Appeal.—(1) Any dealer objecting to an order of assessment or penalty passed under this Act, may, within thirty days from the date of the service of such order, appeal to the prescribed authority, against such assessment or penalty ;

Provided that no appeal shall be entertained by the said authority unless he is satisfied that the amount of tax assessed or the penalty levied, if not otherwise directed by him, has been paid.

Provided further that the authority before whom the appeal is filed may admit it after the expiration of thirty days, if such authority is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within time.

(2) Every appeal under sub-section (1) shall be presented in the prescribed form and shall be verified in the prescribed manner.

(3) The appellate authority shall fix a day and place for hearing of the appeal, and may from time to time adjourn the hearing and make or cause to be made, such further enquiry as may be deemed necessary.

(4) 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.

(5) Every order passed in appeal under this section shall, subject to the provision of revision under section 19, be final.

LEGISLATIVE HISTORY

The first proviso was substituted by Assam Act VII of 1958 with effect from 1.4.58 for the following :—

“Provided that no appeal shall be entertained by the said authority unless he is satisfied that such amount of tax as the appellant may admit to be due from him has been paid.”

19. Revision by Commissioner.—(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 person appointed under section 5 to assist him, is erroneous in so far as it is prejudicial to the interest of the revenue, he may, after giving the dealer 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 person appointed under section 5 to assist him, the Commissioner may, either of his own motion or a petition by a dealer 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 orders thereon not being an order prejudicial to the dealer, as he thinks fit.

(3) In the case of a petition for revision under sub-section (2) by a dealer, the petition must 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 19A 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 dealer 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 purpose of this section, be deemed not to be an order prejudicial to the dealer.

LEGISLATIVE HISTORY

Section 19 was substituted by Assam Act XXVI of 1962 with effect from 11.9.62 for the following :—

“19 Revision.—(1) The Commissioner may, out of his own motion, call for and examine the records of any proceedings which have been taken under this Act by any person appointed under section 5 to assist him and revise, subject to the provisions of this Act and after such enquiry as may be deemed necessary, any order passed in such proceedings;

Provided that no order prejudicial to a dealer shall be passed under this sub-section without giving him a reasonable opportunity of being heard.

(2) The Commissioner may also on petition filed within ninety days of the service of the order passed under section 18 of the Act and after giving the petitioner an opportunity to be heard, revise such order and make such order as he thinks fit.”

19A. Appeal to the Board.—(1) Any dealer aggrieved by 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 dealer an opportunity of being heard, pass such orders thereon as it thinks fit, and shall communicate any such orders to the dealer and to the Commissioner.

LEGISLATIVE HISTORY

Section 19A was inserted by Assam XXVI with effect from 11.9.62:

20. **Payment of tax.**—(1) Tax payable under this Act shall be paid in the manner hereinafter provided.

(2) Before any registered dealer furnishes the returns required by sub-section (1) of Section 10, he shall in the prescribed manner, pay into a Government treasury the full amount of tax due from him under this Act on the basis of such returns, and shall furnish along with the returns a receipt from such treasury in token of payment of such tax.

(3) Where a revised return is submitted by a registered dealer under sub-section (3) of section 10, and the revised returns shows a greater amount of tax to be due than was payable on the basis of the original return, the dealer shall pay the excess amount of tax in the manner provided in sub-section (2), and shall furnish along with the revised return a receipt in token of payment of such excess tax.

(4) The amount of tax due under the provisions of this Act—

(a) in excess of payments already made under sub-sections (2) and (3), or

(b) where no payment has been made,

shall be paid by the dealer by such date as may be specified in the notice of demand and where no such date is specified it shall be paid within thirty days from the date of service of the notice.

Provided that the Commissioner may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of payment of the due or allow such dealer to pay the same by instalments and in that case the dealer shall not be deemed to be in default till the date as extended or the last date of payment by instalment is over.

(5) Where a dealer is in default, the Commissioner may, in his discretion, direct that in addition to the amount due, a sum not exceeding that amount shall be recovered from the defaulter by way of penalty.

LEGISLATIVE HISTORY

By Assam Act XVII of 1963 existing section 20 was substituted for the following with effect from 1.4.63 :—

“20 **Demand when payable and penalty for non-payment in time.**—Any sum demanded under this Act shall be payable within thirty days of the date of service of the notice of demand and for failure to pay

within the prescribed time a penalty not exceeding fifty per centum of the sum demanded may be imposed by the Commissioner."

20A. Interest payable by dealer—(1) If any dealer does not pay into a Government Treasury the full amount of tax payable by him under this Act by the due date simple interest at the rate of twelve per centum per annum from the first day of the month next following the said date shall be payable by him on the amount by which the tax paid, if any, by the due date falls short of the tax payable. No interest under this sub-section shall be payable if the amount of tax paid by the due date is not less than ninety per centum of the tax payable.

(2) If such tax is not paid within a period of sixty days from the due date, then in addition to interest payable under sub-section (1), the dealer shall be liable to pay simple interest at the rate of twenty-four per centum per annum from the day commencing after the said period of sixty days on the amount by which the tax paid, if any, before the expiry of the said period falls short of the amount of tax payable.

(3) If any dealer does not pay the full amount of tax payable by him under this Act in respect of any period between the 1st day of January, 1968 and the 30th September, 1977 before the commencement of the Assam (Sales of Petroleum and Petroleum Products, including Motor Spirit and Lubricants) Taxation (Amendment) Act, 1977 he shall be liable to pay simple interest at the rate of twenty-four per centum per annum from the said date of commencement on the amount by which the tax paid, if any, before such commencement falls short of the tax payable.

(4) Interest under this Section shall be payable till the tax payable is paid in full :

Provided that where a dealer pays a part of the tax payable after the due date or, in a case covered by sub-section (3), after the commencement of the Assam (Sales of Petroleum and Petroleum Products, including Motor Spirit and Lubricants) Taxation (Amendment) Act, 1977 he shall be liable to pay interest at the appropriate rate on the whole of the tax payable up to the date of part payment and thereafter on the balance tax payable.

(5) Where any interest becomes payable under this section, the officer competent to assess the dealer under Section 11 shall

record an order to that effect specifying the amount of interest payable and the amount on which and the period for which the interest is payable. Notwithstanding anything contained in this Act, an order under this sub-section can be passed at any time when interest under this Section is found to be due.

(6) Where an order is passed under Section 15 for recovery of any dues as arrear of land revenue, any interest relating to the same dues and accrued under this Section upto the date of such date shall be recovered in the course of proceedings initiated in accordance with the said section 15 in respect of the said dues and for that purpose no order under sub-section (5) of this Section of notice or demand under this Act shall be necessary in respect of such interest.

Explanation I—For the purposes of this Section “tax payable” means the amount of tax as finally assessed under this Act.

Explanation II—For the purposes of this Section tax payable shall be deemed to be due for payment as follows :—

For any period :—

- (a) From 1st April to 30th June by 31st July
- (b) From 1st July to 30th September by 31st October
- (c) From 1st October to 31st December by 31st January
- (d) From 1st January to 31st March by 30th April

LEGISLATIVE HISTORY

The following section 20A was inserted by Assam Act XV of 1967 with effect from 25.10.67.

(1) Interest payable by dealer.—If any registered dealer does not pay into a Government Treasury the full amount of tax due from him under this Act on the basis of the return or his account books within the prescribed date, simple interest at the rate of six per cent per annum from the first day of the month next following the said date shall be payable by the dealer upon the amount by which the tax so paid falls short of the amount of tax payable as per his return or account books. If such amount of tax and interest due are not paid within thirty days from the date from which the interest is due, simple interest upto a maximum of twenty four per cent per annum shall be payable as may be prescribed.

(2) Where on making the assessments the Commissioner finds that a dealer has not maintained the account books properly and thereby he has suppressed the sale of goods in any period the Commissioner may direct him to pay interest as prescribed in sub-section (1). If the amount of tax payable under the Act has been reduced in appeal or revision the interest may be calculated on the reduced amount.

(3) If any registered dealer does pay into the Government treasury the amount of tax within the date as provided in sub-section (4) of section 20 or any instalment of the tax within the extended date as per proviso thereto, interest as provided in sub-section (1) shall be payable from the first day of the month next following the said date by the dealer upon the amount by which the tax, if any, paid falls short of the amount of tax payable under the Act.

The following sub-section (4) was inserted by Assam Act XI of 1969 with effect from 14.4.1969.

(4) If the amount of tax paid within the prescribed date is not less than ninety per centum of the tax as finally assessed, no interest as provided for in sub-section (1) of this section shall be levied.

The whole section was substituted by the present section by Assam Act XXIII of 1977 with effect from 15.12.77.

21. Refunds.—(1) The Commissioner, shall, in the prescribed manner, refund to a dealer any sum paid by such dealer in excess of the sum due from him under this Act, either by cash payment or at the discretion of the Commissioner by set off against the sum due from him in respect of any other period.

(2) Where a tax has been levied under this Act in respect of any declared goods which are subsequently sold in the course of inter-State trade or commerce, the tax so levied shall be refunded to the dealer in the manner prescribed.

(3) If for reasons of delay a refund due to a dealer is not made within ninety days of such refund being due, the State Government shall pay to such dealer simple interest at the rate of six percent per annum on the amount refundable.

(4) Refund under this Act shall be deemed to be due—

(a) In cases where the tax assessed has been reduced on appeal or revision, etc, from the date the order of the appellate or revisional authority comes to the knowledge of the assessing authority.

(b) In other cases, on the date an application for refund is made by the party claiming the refund.

LEGISLATIVE HISTORY

By Assam Act XI of 1968, the original section 21 was renumbered as sub-section (1) and sub-sections (2), (3) and (4) were inserted with effect from 1.4.69.

21A. Remission.—The State Government, for reasons to be recorded in writing, may remit the whole or part of the amount of the tax or penalty payable in respect of any registered dealer who has suffered heavy loss due to any natural calamity.

LEGISLATIVE HISTORY

Section 21A was inserted by Assam Act XVII of 1961 with effect from 1.6.61.

22. Offences and penalties.—Whoever—

- (1) carries on business as a dealer and acts in contravention of any of the provisions of this Act ; or
- (2) fails, without reasonable cause, to submit in due time any return as required by or under the provisions of this Act, or submits a false return ; or
- (3) fails, when required by or under the provisions of this Act, to keep accounts or records of sales ; or
- (4) fails, when required by or under the provisions of this Act, to produce any accounts, evidence or documents or to furnish any information ; or
- (5) fails or neglects to comply with any requirement made of him under the provisions of this Act ; or
- (6) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information ; or
- (7) fraudulently or wilfully evades the payment of any tax due under this Act, or conceals his liability to such tax ; or
- (7A) fails to pay within the time allowed any tax assessed or any penalty levied on him ; or
- (8) prevents or obstructs inspection or entry by any officer acting under the provisions of this Act ; or
- (9) demands or charges from any purchaser sales-tax as such at a rate higher than that payable under the provisions of the Act ; shall on conviction before a Magistrate and in addition to any tax or penalty or both that may be due from him, be punishable with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both, and, when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

LEGISLATIVE HISTORY

In the original section 22, the following amendments were made by Assam Act XVII of 1961 with effect from 1. 6. 61—

- (1) For the words "failure to furnish returns, etc." the words "Offences and penalties" were substituted.
- (2) In clause (7), between the words "fraudulently" and "evades", the words "or wilfully" were inserted.
- (3) After clause (7), a new clause (7A) was inserted.

23. False statement in declaration.—Whoever makes a statement in a verification or declaration in connection with any proceedings under this Act which is false and which he either knows or believes to be false or does not believe to be true, shall, on conviction before a Magistrate, be punishable with simple imprisonment which may extend to six months or with fine which may extend to one thousand rupees, or with both.

24. Maintenance of accounts.—Every registered dealer or other dealer on whom a notice has been served to furnish return under the provisions of this Act, shall keep a true account of taxable goods produced, made or processed by him or brought by him into Assam from any place outside Assam for the purpose of sale in Assam, and of sales, and if the accounts maintained in the ordinary course do not, in the opinion of the Commissioner, enable him to apply a proper check on the returns furnished under the provisions of the Act, he may require the dealer to keep such accounts in such form as he may, subject to anything that may be prescribed in that connection, direct.

LEGISLATIVE HISTORY

The word "produced" was substituted for "manufactured" by Assam Act X of 1960 with effect from 1. 4. 60. The words "taxable goods" were substituted by Assam Act XVII of 1961 with effect from 1. 6. 61.

25. Powers to order production of accounts etc.—Subject to such conditions and restrictions as may be prescribed, the Commissioner may, for the purposes of this Act, require any dealer to produce before him any accounts, registers, vouchers or other documents relating to the production, making, processing, import, sale or purchase of taxable goods or matters connected therewith.

LEGISLATIVE HISTORY

The word "production" was substituted for "manufacture" by Assam Act X of 1960.

The words "taxable goods" were substituted for the words "motor spirit, lubricants and crude oil" by Assam Act XVII of 1961 with effect from 1.6.61.

The words "motor spirit and lubricants" in the original Act were substituted earlier by Assam Act X of 1960.

26. Issue of warrants.—(1) The Commissioner may issue a warrant—

(a) for the arrest of any person whom he has reason to believe to have committed an offence punishable under this Act, or

(b) for the search, whether by day or by night, of any building, vessel, vehicle or place in which he has reason to believe that any taxable goods is sold or is kept for sale or consumption.

(2) All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898 (V of 1898) by a Police Officer, or, if the Commissioner deems fit, by any other person.

LEGISLATIVE HISTORY

The words "motor spirit or lubricant" in the original section were first substituted by the words "motor spirit or lubricant or both" by Assam Act X of 1960 with effect from 1.4.60 which were again substituted by the existing words "taxable goods" by Assam Act XVII of 1961 with effect from 1.6.61.

27. Power for entry, inspection, search, seizure, detention and arrest without warrant.—The Commissioner may—

(a) inspect at all reasonable times all accounts and vouchers relating to stock, purchases, sales and deliveries of taxable goods kept by manufacturers, importers and dealers and the stock of taxable goods with them;

(b) enter and search, at any time, by day or by night, any building, vessel, vehicle or place in which he has reason to believe that any taxable goods liable to confiscation under this Act is kept or concealed;

(c) seize any taxable goods or any other article which he has reason to believe is liable to confiscation under this Act; and

(d) detain and arrest any person whom he has reason to believe to be guilty of any offence punishable under this Act.

LEGISLATIVE HISTORY

The words "motor spirit and lubricants" in clause (a) and "motor spirit or lubricants" in clauses (b) and (c) were first substituted by Assam Act X of 1960 with effect from 1.4.60 which were again substituted by the words "taxable goods" by Assam Act XVII of 1961 with effect from 1. 6. 61.

28. Searches how made.—All searches made under section 26 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898 (V of 1898).

29. Procedure for arrest without warrant.—The provisions of Section 61 of the Code of Criminal Procedure, 1898 (V of 1898), shall apply to all arrests without warrant made under section 27.

30. Power of investigation.—(1) Every officer appointed under section 5 not below the rank of Sub-Inspector or any officer specially empowered by the Commissioner shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(2) Every such officer shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1898 (V of 1898) upon an Officer-in-charge of Police Station for the investigation of cognizable offence.

Provided that if such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate, or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required before a Magistrate and shall make a full report of the case to the Commissioner and shall be guided by the order which he will receive on such report.

31. Power to grant bail.— Any officer empowered under section 30 shall have power to grant bail in accordance with the provision of the Code of Criminal Procedure, 1898 (V of 1898) to any person arrested without warrant for an offence punishable under this Act.

32. Procedure of seizure.—When anything has been seized by an officer exercising powers under sections 26 and 30, such officer, after such enquiry as may be necessary—

- (a) if it appears that such thing is required as evidence in the case of any person arrested, shall forward the thing to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken ;

(b) if it appears that such thing is liable to confiscation but is not required as evidence as aforesaid, shall send a report of the particulars of the seizure to the Commissioner and be guided by the orders which he will receive on such report; and

(c) if no offence appears to have been committed, shall return the thing to the person from whose possession it was taken and shall report to the Commissioner accordingly.

33. Punishment for vexatious search or arrest.—Any officer or person exercising powers under this Act, who—

(a) without reasonable ground of suspicion, enters or searches, or causes to be entered or searched, any building, vessel, vehicle or place; or

(b) vexatiously or unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act: or

(c) vexatiously and unnecessarily detains, searches or arrests any person, shall on conviction before a Magistrate be punishable with fine which may extend to five hundred rupees.

34. Punishment for vexatious delay in forwarding an arrested person.—Any officer or person exercising powers under this Act who vexatiously and unnecessarily delays forwarding to a Magistrate any person arrested under this Act and not released by him on bail, shall on conviction before a Magistrate be punishable with fine which may extend to two hundred rupees.

35. Things liable to confiscation.—Whenever an offence punishable under this Act is committed, the taxable goods or any other article in respect of which the offence has been committed shall be liable to confiscation.

LEGISLATIVE HISTORY

The words "motor spirit or lubricants" in the original section were first substituted by Assam Act X of 1960 with effect from 1. 4. 60 which were again substituted by the words "taxable goods" by Assam Act XVII of 1961 with effect from 1. 6. 61.

36. Procedure in making confiscation.—(1) When in any case tried by a Magistrate, the Magistrate decides that anything is liable to confiscation under Section 35, he may, after hearing the person, if any, claiming any right thereto and the evidence, if any,

which he produces in support of his claim, order confiscation or may give the owner option to pay such fine as the Magistrate deems fit in lieu of confiscation.

(2) When an offence under this Act has been committed and the offender is not known or cannot be found and when anything not in the possession of any person but liable to confiscation under this Act cannot be satisfactorily accounted for, the Commissioner may enquire into and decide the case, and may order confiscation ;

Provided that no such order shall be made before the expiration of one month from the date of seizure or without hearing any person who may claim any right thereto and any evidence produced in support of such claim.

37. Power to compound offences.—(1) Subject to such conditions as may be prescribed, the Commissioner may either before or after the institution of criminal proceedings under this Act, accept from the person who has committed or is reasonably suspected of having committed an offence under this Act or the rules made thereunder, by way of composition of such offence—

(a) where the offence consists of the failure to pay, or the evasion of any tax recoverable under this Act, in addition to the tax so recoverable, a sum of money not exceeding one thousand rupees) or double the amount of the tax recoverable, whichever is greater, and

(b) in any other case a sum of money not exceeding one thousand rupees in addition to the tax recoverable.

(2) On the payment of such sum of money and the tax, if any, payable under section 3 to the Commissioner, the accused person shall be discharged, the property seized, if any, shall be released and no further proceedings shall be taken against such person or property in respect of such offence.

LEGISLATIVE HISTORY

Sub-section (1) originally read as follows :

“(1)The Commissioner may accept from any person who has committed or is reasonably suspected of having committed an offence punishable under this Act, by way of composition of such offence a sum of money not exceeding one thousand rupees or a sum double the amount of tax payable under section 3 in respect of any sales conducted by such person, whichever is greater ;”

It was substituted by Assam Act XVII of 1961 with effect from. 1. 6. 61.

38. Cognizance of offence.---(1) No Court shall take cognizance of any offence under this Act, or under the rules made thereunder except with the previous sanction of the Commissioner, and no Court inferior to that of a Magistrate of the first class shall try any such offence.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), all offences punishable under this Act or the rules made thereunder shall be cognizable and bailable.

39. Protection of persons acting in good faith and limitation of suits and proceedings---(1) No suit, prosecution or other legal proceedings shall be instituted against any officer of the Government for anything done or intended to be done under this Act or the rules made thereunder in good faith.

(2) No suit shall be instituted against the Government and no suit, prosecution or other proceedings shall be instituted against any officer of the Government in respect of anything done or intended to be done, under this Act unless the suit, prosecution or other proceeding is instituted within four months from the date of the act complained of.

40. Restriction on movement.—No person shall transport from any railway station, steamer station, post office, or any other place whether of similar nature or otherwise, notified in this behalf by the State Government, any consignment of taxable goods exceeding such quantities and except in accordance with such conditions as may be prescribed. Such conditions shall be made with a view to ensure that there is no evasion of the tax imposed by this Act.

LEGISLATIVE HISTORY

The words "Motor Spirit or Lubrications" in the original section were first substituted by Assam Act X of 1960 with effect from 1. 4. 60 which were again substituted by the existing words "taxable goods" by Assam Act XVII of 1961 with effect from 1. 6. 61.

41. Delegation of Commissioner's powers.—Subject to such restrictions and conditions as may be prescribed, the Commissioner, may, by notification in the official Gazette, delegate any of his powers under this Act to any official subordinate to him and such official shall thereupon exercise the said powers.

42. Computation of the period of limitation—In computing the period of limitation prescribed for an appeal or revision, the day on which the order complained of was served and the time requisite for obtaining a certified copy of such order, shall be excluded.

43. Information to be furnished regarding change of business.—If any dealer—

- (a) sells or otherwise disposes of his business or any part of his business or any place of business or effects or comes to know of any other change in the ownership of the business, or
- (b) discontinues his business or changes his place of business or opens a new place of business, or
- (c) changes the name or nature of his business, he shall within the prescribed time inform the Commissioner accordingly; and if any such dealer dies, his legal representative shall in like manner inform the Commissioner.

44. Power to make rules—(1) The Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the fore-going power, such rules, may, in particular, prescribe—

- (a) all matters expressly required or allowed by this Act to be prescribed;
- (b) the regulation of the recovery of the tax leviable under section 3;
- (c) the circumstances and the manner in and the conditions under which refunds may be made or withdrawn;
- (d) the imposing on dealers, importers and manufacturers the duty of furnishing returns, and keeping records and books, the prescribing of forms of such returns, records and books and the particulars to be contained therein respectively, and the manner in which the same are to be verified and all such other conditions thereof as may be necessary;
- (e) the providing for the regulation of sale and purchase of taxable goods, the assessment of tax and the

issue of notices requiring payment and for the recovery of unpaid tax; and

(f) the fees, if any, for petitions, certificates and other matters.

(3) In making any rule, the Government may direct that a breach thereof shall be punishable on conviction before a Magistrate, with a fine not exceeding one thousand rupees or imprisonment not exceeding three months or both, and where the breach is a continuing one, with further fine which may extend to one hundred rupees for every day after the first during which the breach has been persisted in.

LEGISLATIVE HISTORY

The words "motor spirit and lubricants" in the original section were first substituted by Assam Act X of 1960 with effect from 1.4.60 which were again substituted by the words "taxable goods" by Assam Act XVII of 1961 with effect from 1.6.61.

NOTES

In exercise of powers conferred by section 44(1), the State Government made the Assam (Sales of Petroleum and Petroleum Products, including Motor Spirit and Lubricants) Taxation Rules, 1956.

45. **Repeal.**—The Assam Sales of Motor Spirit and Lubricants Taxation Act, 1939 (Assam Act IV of 1939), the Assam Sales of Motor Spirit and Lubricants Taxation (Amendment) Act, 1944 (Assam Act VIII of 1944), the Assam Sales of Motor Spirit and Lubricants Taxation (Amendment) Act, 1946 (Assam Act V of 1946), the Assam Sales of Motor Spirit and Lubricants Taxation (Amendment) Act, 1946 (Assam Act VII of 1946), the Assam Sales of Motor Spirit and Lubricants Taxation (Amendment) Act, 1947 (Assam Act II of 1947), the Assam Sales of Motor Spirit and Lubricants Taxation (Amendment) Act, 1947 (Assam Act XI of 1947), the Assam Sales of Motor Spirit and Lubricants Taxation (Amendment) Act, 1948 (Assam Act X of 1948), the Assam Sales of Motor Spirit and Lubricants Taxation (Amendment) Act, 1951 (Assam Act III of 1951) and the Assam Sales of Motor Spirit and Lubricants Taxation (Amendment) Act, 1953 (Assam Act XXX of 1953) are hereby repealed.