

GOVERNMENT



GAZETTE

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No. 98

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

NOTIFICATION

No. 9/LD/1987.

Dated the 13th August, 1987.

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on the 13th day of August, 1987 is hereby published for general information:—

THE SIKKIM (COLLECTION OF TAXES AND PREVENTION OF EVASION OF
PAYMENT OF TAXES) ACT, 1987.

(ACT NO. 7 OF 1987)

AN
ACT

to provide for collection of taxes and prevention of evasion of payment of taxes.

WHEREAS the machineries for collection of taxes leviable under the Taxation Laws in force in the State of Sikkim and prevention of evasion of taxes thereof are not adequate;

AND WHEREAS it is necessary to empower the Government with adequate powers to enforce the tax laws in force in the State;

AND WHEREAS it is necessary to provide for measures for effective collection of taxes due under several Taxation Laws in force in the State;

AND WHEREAS it is also necessary to provide for measures for prevention of evasion of due tax under the Taxation Laws in force in the State;

Be it enacted by the Legislative Assembly of Sikkim in the Thirty-eighth Year of the Republic of India as follows:—

1. (1) This Act may be called the Sikkim (Collection of Taxes and Prevention of Evasion of Payment of Taxes) Act, 1987. *Short title, extent and commencement.*
- (2) It shall extend to the whole of Sikkim.
- (3) It shall come into force at once.
2. It shall apply to all persons, firms, companies and association of persons in the State of Sikkim. *Applicability.*

- Definitions.** 3. In this Act, unless the context otherwise requires,-
- (a) 'Inspector' means any officer of the Government appointed as Inspector by notification under section 4 of this Act;
 - (b) 'notification' means a notification published in the Official Gazette;
 - (c) 'person' includes company, firm and association of persons whether registered or not;
 - (d) 'tax' means a tax payable under Taxation Laws in force in the State of Sikkim;
 - (e) 'Tax due' means tax assessed as per the procedure laid down under the concerned law;
 - (f) 'Taxation Laws' means all laws dealing with levy of tax in force in the State of Sikkim.
- Appointment of Inspector.** 4. The Government shall appoint one or more Inspectors for the purposes of this Act for such areas as may be specified in the notification.
- Collection of tax.** 5. Every tax due to the Government of Sikkim shall be collected by the Inspector by distraint and sale of moveable and immoveable properties.
- Demand.** 6. (1) The Inspector shall serve a demand directing the payment of tax due on the person who is liable to pay, within seven days.
- (2) Such demand may be served by personal service or by affixing a copy thereof on the front main door of the house of that person or through registered post, as may be necessary.
- Attachment.** 7. (1) The Inspector shall attach the moveable and immoveable properties upon failure to pay the tax demanded within the stipulated time.
- (2) The procedure for attachment of moveable and immoveable properties shall be the same as mentioned in Order XXI of the Code of Civil Procedure, 1908 for execution of decrees.
- Sale of property.** 8. (1) The Inspector shall, after due publication, sell the properties attached under Section 7 by public auction.
- (2) The sale by public auction shall be held as laid down in Order XXI of the Code of Civil Procedure, 1908 for execution of decrees.
- (3) The Inspector shall appropriate the amount of tax due to the Government from out of the sale proceeds and refund the excess amount, if any, to the person whose property has been auctioned after defraying the expenditure incurred on public auction.
- Search and seizure.** 9. (1) The Inspector or any person authorised in this behalf, by notification, by the Government, may enter upon the premises of any person for inspection of books of accounts and for any other relevant records connected with the business, trade, occupation or profession and seize such books or records.
- (2) The books of accounts or records so seized shall be returned within three months from the date of seizure:
- Provided that the books of accounts or records so seized may be kept for another three months by a specific order in writing of the Government of Sikkim.
- Offences and Penalties.** 10. Any person who -
- (a) commits default in payment of tax as determined;
 - (b) fails or refuses to submit any return of his annual gross income;
 - (c) obstructs the Inspector or other officials authorised by the Government in the discharge of his or their duties under this Act and other taxation laws in force in the State of Sikkim;
 - (d) is guilty of contravention of or non compliance with any of the requirements of taxation laws in force in this State or orders, notifications or direction made thereunder for which no special penalty is provided;
 - (e) wilfully furnishes incorrect or false return of his annual income,
- shall be punishable with fine which may extend to five thousand rupees or imprisonment for a period of three years, or with both.

11. All offences under this Act are cognizable and non-bailable and triable by a Magistrate of the First Class only. *Offences to be cognizable.*
12. No prosecution under this Act shall be instituted except with the previous sanction of the Government or such other officer as may be authorised by the Government in this behalf. *Prosecutions.*
13. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act or any order made thereunder. *Protection of action taken in good faith.*

By Order of the Governor,

B. R. PRADHAN,
Secretary to the Govt. of Sikkim,
Law Department.
(File No. 16 (227)/LD/1987.)