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THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰতিষ্ঠাপিত দ্বাৰা অসম

PUBLISHED BY AUTHORITY

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No. 138 Dispur, Thursday, 8th December, 1988, 17th Agrahayana,
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GOVERNMENT OF ASSAM

ORDERS BY THE GOVERNOR

LEGISLATIVE DEPARTMENT : LEGISLATIVE BRANCH

NOTIFICATION

The 8th December 1988

No. LGL.222/88/40.—The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT No. IX OF 1988

Received the assent of the Governor on 8th December, 1988.

THE ASSAM RURAL DEVELOPMENT CESS ACT, 1988.

An

Act

to provide for the creation of a fund for development of rural areas in the State of Assam and for the levy of a rural development cess for that purpose and for matters connected therewith.

It is hereby enacted in the Thirty-ninth Year of the Republic of India as follows.—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Assam Rural Development Cess Act, 1988.

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

(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 the context otherwise requires,—

(a) "annual value" in respect of specified land means the price charged for the mineral oils sold annually by the person who holds specified land for carrying out excavation for the purpose of obtaining mineral oils or for extraction of mineral oils:

Provided that, such price shall include any sum received or receivable by the holder as valuable consideration for the mineral oils sold but shall not include any sum on account of sales tax due under the Central Sales Tax Act, 1956 or under any law of the State Legislature or on account of royalty due under the Oilfields (Regulation and Development) Act, 1948.

Provided further that if more than one price is chargeable for the same variety of mineral oil the maximum price chargeable for that variety of mineral oil shall be taken as the price for such mineral oil ;

- (b) "cess" means the rural development cess;
- (c) "Commissioner" means the Commissioner of Taxes, Assam;
- (d) "mineral oils" include casing head condensate, natural gas and petroleum;
- (e) "prescribed" means prescribed by rules made under this Act;
- (f) "rural development cess" means tax on specified land levied under section 3;
- (g) "specified land" means the land held for carrying out excavation for the purpose of obtaining mineral oils or for extraction of mineral oils;
- (h) "tax" means a tax on specified lands levied under section 3.

RURAL DEVELOPMENT CESS AND RURAL DEVELOPMENT FUND

Rural Development Cess.

3. For the purpose of providing cost of development of rural areas in the State of Assam, on and from the commencement of this Act, there shall be levied and collected on all specified lands in the State a tax, to be known as rural development cess, at such rate not exceeding 25 per cent of annual value, as may be fixed by the State Government by notification in the Official Gazette.

Liability to pay cess

4. The rural development cess shall be leviable on the person who holds specified land for carrying out excavation for the purpose of obtaining mineral oils or for extraction of mineral oils.

Assam Rural Development Fund.

5. (1) The proceeds of the rural development cess and penalties (other than fines) recovered under this Act shall first be credited to the Consolidated Fund of the State and after deduction of the expenses of collection and recovery therefrom shall, under appropriation duly made by law in this behalf, be entered in, and transferred to, a separate fund called the Assam Rural Development Fund.

(2) Any amount transferred to the Assam Rural Development Fund under sub-section (1) shall be charged on the Consolidated Fund of the State.

(3) The amount in the Assam Rural Development Fund shall be expended in such manner and subject to such conditions, as may be prescribed, for the purpose mentioned in section 3.

Payment and recovery of cess and furnishing of returns.

6. (1) The cess levied under section 3 shall be payable in such manner (including payment in advance) as may be prescribed.

(2) The person liable to pay cess under section 4 shall furnish at such intervals and to such authority returns in such form and manner as may be prescribed.

(3) Any arrears of cess shall be recoverable as arrears of land revenue.

Penalty for failure to pay cess.

7. (1) If any person liable to pay cess under this Act in pursuance of provisions of rules made under sub-section (1) of section 6 fails to pay within the period specified therefor, any amount due from him on account of cess, the Commissioner on being satisfied that such person has wilfully failed to pay the cess, may, subject to the general or special order of the State Government and without prejudice to any other penalty to which such person is liable under this Act,

recover from him as penalty a sum not exceeding one fourth of the amount of cess so unpaid in addition to the amount of cess payable by him.

- (2) Sums recoverable under this section shall be recovered in the manner provided in sub-section (3) of section 6 for the collection of cess.

Appeal 8. (1) Any person, who is aggrieved by any order of the Commissioner under this Act, may file an appeal before such person or authority, in such manner, within such time, and on payment of such fees, as may be prescribed.

- (2) The appeal shall be heard and decided in such manner as may be prescribed.

Revision of orders. 9. (1) The State Government may of its own motion or on the application of any aggrieved person call for and examine the record of any proceeding under this Act, for the purpose of satisfying itself as to the legality or propriety of any order passed therein by the Commissioner or by the person or authority referred to in sub-section (1) of section 8 and if it shall appear to it that any order passed therein requires to be modified, annulled or reversed, it may after giving the person affected by, or interested in, such order an opportunity of being heard and after making or causing to be made such inquiry as it deems necessary, pass such order thereon as the circumstances of the case justify including an order directing fresh proceedings :

Provided that no record of any proceeding of the Commissioner shall be called for-

- (i) in a case where an appeal from the order passed therein has been filed, when such appeal is pending, and

(ii) in a case where an appeal has not been filed from such order, before the expiry of the time prescribed for filing such appeal.

(2) No order shall be revised under sub-section (1) by the State Government of its own motion and no application under that sub-section by any aggrieved person for the revision of any order shall be entertained by the Government after the expiry of two years from the date of such order.

Explanation.--In computing the period of limitation for the purpose of sub-section (2),--

(a) any period during which the record of any proceeding shall not be called for under the proviso to sub-section (1), and

(b) any period during which any proceeding under this section is stayed by an order or injunction of any court,

shall be excluded.

MISCELLANEOUS

Maintenance of accounts and registers.

10. Every person liable to pay cess under this Act shall keep and maintain accounts and registers, in such forms as may be prescribed, in respect of quantity of mineral oils produced by him from specified land and the sale proceeds thereof received by him.

Powers to order production of accounts.

11. The Commissioner or any officer empowered in this behalf by the State Government by an order in writing require any person liable to pay cess under this Act, to produce such accounts, registers and documents and to furnish such information relating to the quantity of mineral oil produced from specified land or the sale proceeds thereof received by him, as may be specified in the order.

Powers of
entry and
inspection.

12. (1) Any officer authorised by the State Government in this behalf may at all reasonable times enter into, inspect and search, any specified land and any place where the person liable to pay cess under this Act ordinarily keeps books of accounts, registers and documents relating to excavation for obtaining mineral oils from such land, for the purpose of verifying whether the provisions of this Act or any rules made thereunder are being complied with.

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(2) All searches made under sub-section (1) shall be in accordance with the provisions of the Code of Criminal Procedure, 1973.

Offences.

13. Whoever :-

- (a) fails to pay cess within the time stipulated therefor, or
- (b) fails to keep and maintain accounts and registers as required by section 10, or
- (c) fails to comply with an order made under section 11, or
- (d) knowingly produces false accounts, registers or documents or knowingly furnishes incorrect information, or
- (e) obstructs any officer making an entry, inspection or search under section 12,

shall, on conviction be punished with fine which may extend to one thousand rupees.

Offence by
companies.

14. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as

well as the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation:—For the purpose of this section,—

(a) "company" means a body corporate, and includes a firm or other association of persons or body of individuals, and

(b) "director" in relation to a firm means a partner in the firm.

Protection
of action
taken in
good faith.

15. No suit or other proceeding shall lie against the State Government or any officer of the State Government for anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

Power to
make rules.

16. (1) The State Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, the State

Government may make rules for all or any of the following matters, namely :—

(a) the manner in which and conditions subject to which the amount in the Assam Rural Development Fund shall be expended under section 5 ;

(b) the manner of payment of cess and the intervals at, the authority to and the manner and form in which returns shall be furnished under section 6 ;

(c) the person or authority before which, the manner in which, the time within which and the fee on payment of which the appeal may be filed and the manner in which, such appeal shall be heard and decided, under section 8 ;

(d) the form in which accounts and registers shall be maintained under section 10 ;

(e) any other matter which is required or allowed by this Act, to be prescribed.

(3) The power to make rules conferred by this section shall except on the first occasion of the exercise thereof, be subject to the condition of the rules being made after previous publication.

(4) Every rule made under this Act shall be laid as soon as may be after it is made, before the Assam Legislative Assembly while it is in session for a total period of fourteen days, which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Assam Legislative Assembly agree in making any modification in the rule or the Assam Legislative Assembly agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

K. D. PHUKAN,
Deputy Secy. to the Govt. of Assam,
Legislative Department.

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