

Assam Industries (Sales Tax Concessions) Act, 1986

ASSAM

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Rule

ASSAM-INDUSTRIES-SALES-TAX-CONCESSIONS-ACT-1986 of 1986

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Assam Industries (Sales Tax Concessions) Act, 1986Last Updated 13th February, 2020An act to consolidate and amend the provision of law relating to sales tax in the matter of concessions to industries.Preamble. - Whereas it is expedient to consolidate and amend the provisions of law relating to sales tax in the matter of concession to industries;It is hereby enacted in the Thirty-Seventh Year of the Republic of India as follows:-

Chapter I

1. Short title, extent and commencement.

(1)This Act may be called the Assam Industries (Sales Tax Concessions) Act, 1986.(2)It extends to the whole of the State of Assam and shall, except section 9, be applicable to new industrial units.(3)It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

2. Definitions.

- In this Act, unless the context otherwise requires:-(1)"Authorisation certificate" means a certificate granted under Section 4;(2)"New Industrial Unit" means an industrial unit for the setting up of which all the effective steps have been completed on or after the 15th October, 1982, but before the 31st March, 1990.Explanation. - For the purpose of this clause, effective steps for setting up an industrial unit shall be deemed to have been completed if the following steps have been completed in relation to the said unit:-(i)The unit shall be in effective possession of land;(ii)In the case of a firm or company or Co-operative Society or Trust, the registration of the firm or company or Society or Trust under the appropriate law shall be obtained;(iii)The unit shall obtain provisional Small Scale

Industries Registration of Letter of Intent from the Government of India Intent from the Government of India and/or permission from the State Government for setting up of the unit, if such permission is required to be obtained under any order or law for the time being in force;(iv)In the case of a medium/large scale unit not covered by the Industries (Development and Regulations) Act, 1951 the unit shall apply for registration;(v)Industrial licence/registration shall be obtained in respect of the unit;(vi)Capital goods clearance, wherever necessary, shall be obtained;(vii)The means of finance for the project shall be completed to the satisfaction of the authority prescribed under sub-section (1) of section 4;(viii)Other clearance, if any, from the Central/State Government and/or other authorities concerned, for implementing the project shall be obtained;(ix)The unit shall acquire at site fixed assets to the extent of at least 10 per centum of the total fixed assets envisaged for the project;(x)The unit shall incur expenditure on the project including advances paid and preoperative expenses to the extent of at least 25% per centum of the capital cost envisaged for the Project; and(xi)In case of a project proposed to be implemented in suitable phases the first phase of the project itself involving Gross Fixed Capital investment exceeding Rs 5 crores:-(a)The meant of finance for the project shall be deemed to have been completed if the means of finance including equity contribution for the first phase of the project, have been tied up to the satisfaction of the authority prescribed under sub-section (1) of section 4;(b)It shall be deemed to be sufficient compliance with the conditions set out in sub-clause (ix) above if the unit has acquired at site fixed assets at least to the extent of 10% per centum of the fixed assets pertaining to the first phase of the project, and(c)Actual expenditure, including advances and pre-operative expenses, incurred on the project to the extent of 12% per centum of the capital cost of the first phase of the project shall be deemed to be sufficient compliance of the conditions set-out in clause (x) above;(3)"Prescribe" means prescribed by rules made under this Act;(4)"Sales tax laws" means;(a)The Assam Sales Tax Act, 1947 (Assam Act XVII of 1947);(b)The Assam (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricants) Taxation Act, 1955 (Assam Act IX of 1956);(c)The Assam Finance (Sales Tax) Act, 1956 (Assam Act XI of 1956), and(d)The Assam Purchase Tax Act, 1967 (Assam Act XIX of 1967).(5)"Section" means a section of this Act;(6)"State" means the State of Assam;(7)"State Government" means the State Government of Assam;(8)Terms and expression used but not defined in this Act shall, in relation to any of the sales tax laws specified in sub-clause (4) above, have the same meaning as defined in such laws.

Chapter II

Sales Tax Concessions in Respect of Raw Materials

3. Exemption of raw materials from Sales Tax.

(1)Notwithstanding anything contained in any sales tax law, and, as from the commencement of this Act, no dealer shall be liable to pay any tax under such law in respect of the sale by him of any goods to a person possessing a valid authorisation certificate, hereinafter in this Act referred to a "holder" if such goods are specified in such certificate as intended by the holder for use by him as raw materials in the manufacture of goods in the State for sale by him:Provided that where tax has been paid under any sales tax law in respect of any goods sold to or, as the case may be, purchased by any person during the period from the 15th day of October, 1982 to the commencement of this Act, such

tax shall be re-imbursed to such person, in such manner and subject to such conditions as may be specified by the State Government in a notification made in this behalf in the official Gazette if

-(i)Such person would have been entitled to a certificate of authorisation under sub-section (2) of section 4 and the goods sold to him could have been specified in such certificate as intended by him for use as raw materials by him in the manufacture of goods in the State, or(ii)Such person would have been entitled to exemption in respect of such goods by virtue of a notification made under section 3A of the Assam Purchase Tax Act, 1967 (Assam Act XIX of 1967), had this Act come into force with effect from the 15th day of October, 1982.(2)The provisions of sub-section (1) relating to exemption from tax payable under any sales tax law in respect of any sale of goods shall not apply unless the dealer selling the goods furnishes to the authority competent to assess him under such law a declaration duly filled and signed by the holder to whom the goods were sold containing the prescribed particulars in a prescribed form obtained from the prescribed authority.(3)Unless otherwise directed by the State Government or any officer so authorised by it in this behalf the declaration mentioned in sub-section (2) shall have to be furnished by the dealer along with the return of turnover due from him under the sales tax law under which the tax would have been payable in the absence of such a declaration.

4. Certificate of authorisation.

(1)A person undertaking to manufacture in the State such goods, as may be prescribed, may make an application in the prescribed form to the prescribed authority and within the prescribed time for a certificate of authorisation for the purposes of sub-section (1) of section 3.(2)If the authority to whom an application is made under sub-section (1) is satisfied that the application is in conformity with the provisions of the Act and the rules made thereunder it shall grant to the applicant a certificate of authorisation in the prescribed form which shall specify the class or classes of goods for purposes of sub-section (1) of section 3 and the period for which it shall remain valid.(3)A certificate of authorisation granted under this section shall remain valid for a period of five years from the date of completion of effective steps for setting up the industrial unit in respect of which the certificate is granted:Provided that the authority issuing the certificate may, if he is satisfied on application made in this behalf, extend the validity of the certificate till the expiry of five years from the commencement of production by the industrial unit in respect of which the certificate is granted.(4)No certificate of authorisation shall be granted under sub-section (2) except in respect of such raw materials as may be prescribed.(5)A certificate of authorisation granted under this section may:-(a)Be amended by the authority granting it if he is satisfied either on the application of the holder or, where no such application has been made, after due notice to the holder, that by reason of the holder having changed the name, place or nature of his business or the class or classes of goods bought, sold or manufactured by him or for any other reason the certificate of authorisation granted to him required to be amended, or(b)Be cancelled by the authority granting it where he is satisfied after due notice to the holder that the holder has ceased to carry on business or for any other sufficient reason.

5. Tax for misuse of raw materials.

(1)Where any holder, after purchasing any goods on the strength of a declaration made by him under sub-section (2) of section 3, -(i)Makes use of such goods for any purpose other than those specified in his authorisation certificate; or(ii)Does not make use of the same for such purposes within twelve calendar months from the date of purchase of the goods, he shall be liable to pay tax in respect of such goods as hereinafter provided, at the price at which the goods were sold to him.(2)The tax under sub-section (1) shall be paid under the sales tax law under which the tax would have been payable in the absence of the declaration mentioned in that sub-section as if the person was a dealer registered under such law and the tax payable under this sub-section was a tax under that law.(3)The tax under sub-section (1) shall be charged at the same rate at which tax on the sale of the goods to the holder would have been payable in the absence of the declaration made by him under sub-section (2) of section 3.

6. Statement of tax free purchases of raw materials.

(1)Every holder shall furnish to the prescribed authority such statement, as may be prescribed, of goods purchased by him on the strength of declarations mentioned in sub-section (2) of section 3 in such form as may be prescribed.(2)The statement under sub-section (1) shall be furnished in respect of every quarter within thirty days from the end of the quarter to which it relates.Explanation. - "Quarter" here means period of three consecutive months from :-(i)1st April to 30th June;(ii)1st July to 30th September;(iii)1st October to 31st December; and(iv)1st January to 31st March.(3)The statement in respect of every quarter under sub-section (1) shall be accompanied by evidence of payment of tax payable under sub-section (1) of section 5 in respect of goods used during the quarter in the manner specified in clause (i) of sub-section (1) of section 5 and goods not used during quarter as specified in clause (ii) thereof.(4)A separate statement shall be furnished under this section in respect of goods taxable under each of the sales tax laws.(5)A statement under sub-section (1) shall be furnished until such time as goods bought on the strength of a declaration made under sub-section (2) of section 3 have been fully used in the manufacture of goods as specified in the authorisation certificate or until such time as tax is paid in respect of such goods as provided in section 5 whichever is earlier.

7. Application of Provisions of Assam Act, XVII of 1947.

- The Tax payable under section 5 by a holder and the statement liable to be furnished by him under section 6 shall be treated as if they were tax payable by or, as the case may be, return of turnover due from him under the Assam Sales Tax Act, 1947 (Assam Act XVII of 1947) and the prescribed authority shall assess, reassess, collect and enforce payment of tax payable by the holder under section 5 as if the tax payable by such holder under that section is a tax payable under such Act, and for this purpose he may exercise all or any of the powers he has under that Act, and the provisions of that Act including provisions relating to returns, assessments, penalties, recoveries, appeals, revisions, references, refunds, compounding of offences and treatment of documents furnished as confidential shall also apply accordingly.

8. Maintenance of Accounts.

- Every holder shall maintain such accounts of purchases and sales as may be prescribed.

9. Re-imbursement of sales tax on raw materials.

(1)The State Government may, in the public interest and for promoting any prescribed industry or class of industry, provide for reimbursement to any persons in the manner and subject to such conditions as may be prescribed of the amount of tax paid under any sales tax law in respect of such goods as may be prescribed and used by such person as raw-materials in the manufacture of goods in the State.(2)The concession under sub-section (1) shall not be applicable to raw materials in respect of which a certificate of authorisation has been or can be granted under section 4.

10. Power to make rules.

- The State Government may, subject to the condition of previous publication, make rules for carrying out the provisions of this Act.

11. Power to remove difficulties.

- If any difficulty arises in giving effect to the provisions of this Act the State Government may, by general or special order, do anything not inconsistent with such provisions which appears to it to be necessary or expedient for the purpose of removing the difficulty.

Chapter III

Amendment of Existing Sales Tax Laws for Providing Sales/purchase tax Concessions to Raw Materials and Finished Products

12.

In the Assam Sales Tax Act, 1947,(i)After section 3, the following new section shall be inserted as 3A, namely:-

3A. Amendment of Assam Act XVII of 1947. - Notwithstanding anything contained in this Act the State Government may subject to such conditions as may be specified therein, direct that no dealer shall be liable to pay tax under this Act in respect of sales of such goods produced by him in any such new industrial unit as may be specified in the notification for a period of five years from the date of commencement of production in such new

industrial unit:

Provided that exemption under this section shall not be granted in respect of any sale where the dealer has collected any amount by way of sales tax in any form or manner in respect of such sale. Explanation. - For the purpose of this section, the clause "new industrial unit" shall have the same meaning as in the Assam Industries (Sales Tax Concessions) Act, 1986."(ii)In section 15, after clause (1), the following shall be inserted as clause (IA), namely:-"(1A) his turnover during that period on the sale of goods exempted under section 3 of the Assam Industries (Sales Tax Concessions) Act, 1986."(iii)In section 371A, the brackets and the figure "(1)" and sub-section (2) shall be deleted.

13. Amendment of Assam Act IX of 1956.

- In the Assam (Sales of Petroleum and Petroleum Products, including Motor Spirit and Lubricants) Taxation Act, 1955, after section 3, the following new sections shall be inserted as section 3A and 3B, namely:-

3A. Exemption of raw materials. - Notwithstanding anything contained in section 3, a dealer shall not be liable to pay tax on his turnover from sales of taxable goods exempted under section 3 of the Assam Industries (Sales Tax Concession) Act, 1986.

3B. Exemption for new industrial units. - Notwithstanding anything contained in this Act the State Government may, by notification in the Official Gazette and subject to such conditions as may be specified therein, direct that no dealer shall be liable to pay tax under this Act in respect of sales of such goods produced by him in any such new industrial unit as may be specified in the notification for a period of five years from the date of commencement of Production in such new industrial unit:

Provided that exemption under this section shall not be granted in respect of any sale where the dealer has collected any amount by way of sales tax in any form or manner in respect of such sale. Explanation. - For the purpose of this section, the clauses "new industrial unit" shall have the same meaning as in the Assam Industries (Sales Tax Concessions) Act, 1986."

14. Amendment of Assam Act XI of 1956.

- In the Assam Finance (Sales Tax) Act, 1956 (i) after section 3, the following new sections shall be inserted as section 3A and 3B, namely:-

3A. Exemption of raw materials. - Notwithstanding anything contained in section 3, a dealer shall not be liable to pay tax on his turnover from sales of taxable goods exempted under section 3 of the Assam Industries (Sales Tax Concessions) Act, 1986.

3B. Exemption for new industrial units. - Notwithstanding anything contained in this Act the State Government may, by notification in the Official Gazette and subject to such conditions as may be specified therein direct that no dealer shall be liable to pay tax under this Act in respect of sales of such goods produced by him in any such new industrial unit as may be specified in the notification for a period of five years from the date of commencement of production in such new industrial unit:

Provided that exemption under this section shall not be granted in respect of any sale where the dealer has collected any amount by way of sales tax in any form or manner in respect of such sale. Explanation. - For the purpose of this section, the clause "new industrial unit" shall have the same meaning as in the Assam Industries (Sales Tax Concessions) Act, 1986. (ii) In section 24A, the brackets and the figure "(1)" and sub-section (2) shall be deleted

15. Amendment of Assam Act XIX of 1967.

- In the Assam Purchase Tax Act, 1967, after section 3, the following new section shall be inserted as section 3A, namely:-

3A. Exemption for new industrial units. - Notwithstanding anything contained in this Act the State Government may, by notification in the Official Gazette and subject to such conditions as may be specified therein, direct that no tax under this Act shall be payable by a dealer in respect of such goods used by him as raw materials in the manufacture of goods in the State in such new industrial unit as may be specified in the notification for a period of five years from the date of commencement of production in such new industrial unit.

Explanation. - For the purpose of this section, the clause "new industrial unit" shall have the same meaning as in the Assam Industries (Sales Tax Concessions) Act, 1986."

Chapter IV

Employment Norms For Eligible Units

16. Restrictions on extension of concessions to industrial units.

(1)The concessions specified in the previous sections shall be extended, as and from the date of commencement of this Act, to an industrial unit only on production by its owner at such intervals, in such manner and in such form as may be prescribed, a certificate obtained from an authority specified by the State Government in this behalf to the effect that the number of local people employed in the unit including those in the management cadre is not less than eighty per centum of the total number of persons employed in the unit.(2)The certificate under sub-section (1) shall be granted by the specified authority after making such enquiry as may be prescribed and giving the owner of the unit a reasonable opportunity of being heard.