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ASSAM ACT NO. XIX OF 1963

THE ASSAM URBAN IMMOVABLE PROPERTY TAX ACT, 1963.

(Received the assent of the President on the 3rd August 1963)

(As passed by the Assembly)

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An

Act

to impose a tax on immovable property in urban areas in the State of Assam.

Preamble. WHEREAS it is expedient to impose a tax on immovable property in urban areas in the State of Assam:

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

Short title, extent and commencement. 1. (1) This Act may be called the Assam Urban Immovable Property Tax Act, 1963.

(2) It extends to all urban areas in 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 there is anything repugnant in the subject or context—

(1) "annual value" means—

(a) in the Municipal areas the annual value of lands and buildings as determined in accordance with the provisions of the Assam Municipal Act, 1956; or

(b) annual value as determined in the final Valuation List referred to in sub-section (5) of section 6;

(2) "assessee" means a person by whom Urban Immovable Property Tax or any other sum of money is payable under this Act and includes every other person in respect of whom any proceeding under this Act has been taken for the determination of the Urban Immovable Property Tax payable by him;

(3) "Board" means the Assam Board of Revenue constituted under the Assam Board of Revenue Act, 1962 or under any statutory modification or re-enactment thereof;

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(4) "Commissioner" means the Commissioner appointed under section 5 ;

(5) "Government" means the State Government ;

(6) "Municipal area" means any area declared to be or included in the Municipality under the provision of sub-section (2) of section 5 of the Assam Municipal Act, 1956, or declared to be a notified area under the provision of sub-section (4) of section 334 of the said Act ; Assam Act XV of 1957.

(7) "occupier" means the person for the time being in actual occupation of, or paying, or liable to pay to the owner, rent or any portion of rent of the land or building in respect of which the word is used, and includes a person occupying a land or building or part of a land or building rent free, and an owner living in his own house ;

(8) "owner" includes any person for the time being receiving rent of any land or building or any part of any land or building whether on his own account or as agent or trustee for any person or society or for any religious or charitable purpose, or as a receiver, or who would so receive such rent if the land, building or part thereof are let to a tenant ;

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

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

(11) "urban area" includes a Municipal area and any area declared to be such by the Government by notification in the Official Gazette, within 16 kilometres of any Municipal area ;

(12) "urban land and building" means any land and building within any urban area ;

(13) "year" means the financial year.

Levy of Urban Im-movable Property Tax.

3. Subject to the other provisions contained in this Act, there shall be levied and collected for every year a tax hereinafter called the "Urban Immovable Property Tax", on all lands and buildings in urban areas. The quantum of tax shall be three per cent of the annual value of the land and building and shall be recoverable from the owner thereof.

Exemptions.

4. The Urban Immovable Property Tax shall not be leviable in respect of urban lands and buildings :—

(a) occupied by the State or the Central Government ;

- (b) owned by—
 - (i) a Municipal Board or Town Committee ;
 - (ii) a Panchayat or Mahkuma Parishad constituted under any law for the time being in force ;
- (c) set apart for public worship and actually so used ;
- (d) used exclusively as a public burial or burning ground ;
- (e) used for charitable purposes as the Government may by notification specify ;
- (f) used for the preservation of ancient monuments.

Taxing authority. 5. (1) The Government may, for carrying out the purpose of this Act, appoint a Commissioner and such other persons to assist him as it may think fit.

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

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

Valuation List. 6. (1) In order to levy the Urban Immovable Property Tax, the prescribed authority may obtain in the beginning of each year from the Municipal Board or Town Committee, as the case may be, a list of owners of lands and buildings with their addresses in respect of which annual value has been determined by the Municipal Board or Town Committee.

(2) Where no annual value of any land or building has been determined by the Municipal Board or Town Committee, the prescribed authority, after making such enquiries as may be necessary, shall determine the valuation of such land or building within such Municipal area as hereinafter provided and shall enter the same in a list called the draft Valuation List, which shall be in the prescribed form.

(3) As soon as may be, after preparation of the draft Valuation List, the prescribed authority shall publish a notice in the prescribed manner calling for any objection to the said Valuation List, to be preferred within thirty days of the date of publication of the said notice.

(4) Where any objection is preferred under sub-section (3), the prescribed authority shall, after affording a reasonable opportunity of being heard to the objector, decide the objection and shall confirm or modify the draft Valuation List.

(5) Subject to such modification, as provided in this Act, the draft Valuation List shall be final Valuation List after thirty days of issue of the notice under sub-section (3).

Returns.

7. The prescribed authority, in order to prepare the Valuation List under section 6 may, whenever it thinks fit, by notice require any owner or occupier of urban land or building to furnish it, within fifteen days, with return of the rent or annual value thereof and such other information as it may require; and the prescribed authority, at any time between sunrise and sunset, may enter, inspect and measure any such land or building:

Provided that the prescribed authority may, in respect of any particular owner or occupier and for reasons to be recorded in writing, extend the date of furnishing returns.

Principles of determining the annual value.

8. (1) In determining the annual value of urban lands and buildings under section 6, the prescribed authority shall follow such procedure as may be prescribed and shall have regard to the following matters, namely:—

(a) the locality in which the urban land and building is situated;

(b) the predominant use to which the urban land and building is put, that is to say, industrial, commercial or residential;

(c) accessibility or proximity to market, dispensary, hospital, railway station, educational institution or Government offices;

(d) availability of civic amenities like water supply, drainage and lighting; and

(e) such other matters as may be prescribed.

(2) The prescribed authority shall follow the same procedure, as far as may be practicable, as is followed by a Municipal Board or Town Committee in determining the annual value of urban lands and buildings.

Penalty for non-submission of return or for furnishing false information.

9. Whoever refuses or fails to furnish any return under section 7, or knowingly furnish a false or incorrect return or information, shall be liable to a fine not exceeding twenty rupees and to a further fine not exceeding five rupees for each day during which he omits to furnish a true and correct return; and whoever obstructs, hinders or prevents the prescribed authority from entering or inspecting or measuring any such land or building shall be liable to a fine not exceeding two hundred rupees.

Assessment.

10. The prescribed authority in the beginning of each year on obtaining the necessary information from the Municipal Board or Town Committee or on completion of the final Valuation List, shall assess the amount of tax due from the owner. In the event of failure of the owner to comply with the terms of notice under section 7, the assessment shall be done by the prescribed authority to the best of its judgment.

Power of Government to reduce or remit Urban Immovable Property Tax.

11. (1) Government may, subject to such rules as may be made in this behalf, by order reduce or remit, whether prospectively or retrospectively the Urban Immovable Property Tax payable in respect of any class of urban lands and buildings or by any class of persons and in particular the tax payable in respect of urban lands and buildings which are occupied wholly or partly by the owners themselves.

(2) The Government may at any time cancel or modify any order issued under sub-section (1) and upon such cancellation the Urban Immovable Property Tax shall be payable in respect of the land and building concerned with effect from the year in which such cancellation is made.

Realisation of tax in case of dissolution of any firm or association.

12. Where the urban land and building belong to a firm or an association of persons, other than a company as defined in the Companies Act, 1956 and in respect of which tax is due under this Act is discontinued or the association of persons is dissolved the Urban Immovable Property Tax shall be levied upon and recovered jointly and severally, from every person who at the time of such discontinuance or dissolution was a partner of such firm or member of such association; and all the provision of this Act shall apply accordingly.

Act I
of 1956.

Appeal to the prescribed authority.

13. (1) Any owner objecting to an order passed under this Act may, within thirty days from the date of the finalisation of the Valuation List under sub-section (5) of section 6, or service of any other order, appeal to the prescribed authority against such order provided that this period may be extended by the prescribed authority for good and sufficient reasons to be recorded in writing:

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

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

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

- (a) confirm, reduce, enhance or annul the order of valuation or assessment, or
- (b) set aside the order of valuation or assessment and direct a fresh valuation or assessment after such enquiry as may be ordered, or
- (c) confirm, reduce or annul the order of penalty.

(3) The order of the appellate authority shall be final except as provided in section 14 and section 15.

Revision by
Commissioner.

14. (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 interests of revenue, he may, after giving the owner an opportunity of being heard and after making or causing to be made such enquiry as he deems necessary, pass such orders thereon as the circumstances of the case justify, including an order enhancing or modifying the valuation or assessment, or cancelling the valuation or assessment and directing a fresh valuation or assessment as the case may be.

(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 on a petition by the owner for revision, call for the record of any proceeding under this Act in which any such order has been passed and may make such enquiry or cause such enquiry to be made, and subject to the provisions of this, may pass such order thereon, not being an order prejudicial to the owner, as he thinks fit.

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

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

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

- (a) where an appeal against the order lies under section 13 or 15 but has not been made and the time within which such appeal may be made has not expired, or in the case of an appeal to the Board, the owner has not waived his right of appeal ; or
- (b) where the order is pending on appeal under section 13 ; or
- (c) where the order has been made the subject of an appeal to the Board.

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

Appeal to
the Board
of Revenue.

15. (1) Any owner objecting to an order passed in appeal under section 13 or passed in revision under sub-section (1) of section 14 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.

Notice of
Demand

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

16. When any tax or penalty or other dues is or are payable in consequence of any order passed under or in pursuance of this Act, the prescribed authority shall serve upon the person liable to pay such tax or penalty or other dues a notice of demand in the prescribed form specifying the sum so payable and the date within which such sum shall be paid.

Mode of re-
covery.

17. (1) If the demand in respect of any dues under this Act is not paid on or before the date specified as aforesaid, the owner shall be deemed to be in default ;

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

(2) Where an owner is in default, the prescribed authority 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.

(3) Where an owner is in default, the prescribed authority may order that the amount due shall be recoverable as an arrear of land revenue and may proceed to realise the amount due as such.

Tax of deceased payable by representative.

18. Where an owner of urban land or building dies, the tax shall be levied upon and recoverable from his executor, administrator or other legal representative, as the case may be.

Tax when payable by transferee.

19. When the urban land or building of an owner, passes on to any person whether by sale, inheritance or otherwise, the liability to pay tax payable in respect of such land or building and remaining unpaid at the time of such passing on, shall be jointly and severally on the transferor and the transferee, and the transferee shall within thirty days of such passing on, apply to the prescribed authority to record his name.

Liability of guardian & trustee, etc.

20. Where the urban land or building is in-charge of any guardian, trustee or agent of a minor or other incapacitated person on behalf of, and for the benefit of, such minor or other incapacitated person, the urban Immovable Property Tax shall be levied upon and recoverable from such guardian, trustee or agent as the case may be, in the like manner and the same extent as it would be leviable upon and recoverable from any such minor or other incapacitated person, if he were of full age and sound mind and all the provisions of this Act shall apply accordingly.

Refund.

21. The prescribed authority on being satisfied either on an application or on any other manner that the owner has paid in excess of the sum due from him shall order, as soon as it may be, the refund of the sum so paid in excess:

Provided that the prescribed authority may set-off such sum against other dues from the same owner.

Rectification.

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

Provided that no such rectification shall be made having the effect of enhancing the assessment unless the authority concerned has given notice to the owner of its intention so to do and has allowed him 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 owner.

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

False Statement in declaration.

23. Whoever makes a statement in 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.

Power to call for information.

24. The prescribed authority may, for the purposes of this Act—

(1) require any firm or association or Hindu undivided or joint family to furnish it with a statement of the names and addresses of the members of the firm or association or of the names and addresses of the manager or members of the family, as the case may be ;

(2) require any person whom it has reason to believe to be a trustee, guardian, manager or agent to furnish it with a statement of the names of the persons with their addresses for or of whom he is a trustee, guardian, manager or agent ;

(3) require any Municipal Board or Town Committee to furnish the names and addresses of owners of urban land and building situated within its area and copies of valuation list and assessment register,

Bar of suits in Civil Courts. 25. No suit shall be brought in any Civil Court to set aside or modify the tax levied or orders passed under the provisions of this Act, and no prosecution suit or other proceedings shall lie against any officer of the State Government for anything in good faith done or intended to be done under this Act or the rules made thereunder.

Liability of guardian & trustee, etc. 26. The prescribed authority shall, for the purposes of this Act, have the same powers as are vested in a Court under the Civil Procedure Code, 1908, when trying a suit in respect of the following matters—

Act V
of 1908.

(1) enforcing the attendance of any person and examining him on oath or affirmation ;

(2) compelling the production of documents ;

(3) issuing commissions for the examination or witnesses ;

and any such proceedings before the prescribed authority shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 and for the purposes of section 196 of the Indian Penal Code, 1860.

Act XLV
of 1860.

Computation of the period of limitation. 27. 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.

Information to be furnished regarding change of ownership.

28. If any owner—

(a) sells or otherwise disposes of his urban land or building or any part thereof, or

(b) acquires or occupies any new land or building in an urban area, or

(c) constructs any new building or house in an urban area,

he shall within the prescribed time inform the prescribed authority accordingly ; and if any such owner dies, his legal representative shall in like manner inform the said authority.

Delegation of the powers of Commissioner. 29. The Government may delegate, by notification in the Official Gazette, any of the powers of the Commissioner, under this Act to any person appointed under section 5 to assist the Commissioner.

Offences and Penalties.

30. (1) Whoever—

- (a) fails to pay the tax due from him within the prescribed period ; or
- (b) fraudulently or wilfully evades the payment of any tax due under this Act ; or
- (c) obstructs any prescribed authority from entry under section 7 ; or
- (d) fails or neglects to comply with any requirement made by him under the provisions of this Act ; or
- (e) knowingly produces incorrect accounts registers or documents or knowingly furnishes incorrect information ; or
- (f) contravenes any other provision of this Act or the Rules made thereunder ;

shall be liable, on conviction, to a fine which may extend to one thousand rupees and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

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

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

Power to compound offences.

31. (1) The prescribed authority may, at any time, accept from any person who has committed an offence under section 30 by way of composition of offence, a sum of money not exceeding one thousand rupees or double the amount of tax involved, whichever is greater, in addition to the tax to be recovered.

(2) On payment of such sum of money as may be determined under sub-section (1), the prescribed authority shall, where necessary, report to the court that the offence has been compounded and thereafter no further proceedings under section 30 shall be taken against the offender in respect of the same offence and the said Court shall discharge or acquit the accused, as the case may be.

Power to
make rules.

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

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

- (a) prescribing the manner in which and the intervals at which tax and penalty shall be paid under this Act ;
- (b) prescribing the authority or authorities for the purpose of carrying out any function under any of the provisions of this Act ;
- (c) prescribing the form in which the Valuation List shall be prepared ;
- (d) prescribing the manner in which and conditions under which the Government may reduce or remit the Urban Immovable Property Tax ;
- (e) prescribing the manner in which an appeal petition may be filed under sections 13 and 15 ;
- (f) prescribing the manner in which a revision petition may be filed under section 14 ;
- (g) prescribing the manner in which refund under section 21 shall be made ; and
- (h) providing for any other matter for which the rules can be or may be prescribed.

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

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