

THE ASSAM VALUE ADDED TAX Act. 2003
(as amended in April 2005)

To provide for the imposition and collection of tax on sales or purchases of goods in the State of Assam and for matters connected therewith and incidental thereto.

Preamble: Whereas it is expedient to consolidate the law relating to the imposition and collection of tax on sales or purchases of goods in the State of Assam.

It is hereby enacted in the Fifty-fourth Year of the Republic of India as follows:-

CHAPTER - 1
PRELIMINARY

1. **Short title, extent and commencement:** (1) This Act may be called The Assam Value Added Tax Act. 2003
(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, and different dates may be appointed for different provisions of this Act.
2. **Definitions:** In this Act, unless the context otherwise requires,-
 - (1) **"agriculture"** with all its grammatical variations and cognate expressions, includes floriculture, horticulture, the raising of crops, grass of garden produce, and also grazing; but does not include dairy farming, poultry farming, stock breeding, the mere cutting of wood or grass, gathering of fruit, raising of man-made forests or rearing of seedlings or plants;
 - Explanation-* For the purposes of this clause and clause (7), the expression "forest" means the forest to which the Indian Forest Act, 1927, in its application to the State of Assam, applies; **(Central Act 16 of 1927)**
 - (2) **"agriculturist"** means a person who cultivates land personally for the purpose of agriculture;
 - (3) **"Appellate Authority"** means a person not below the rank of the Deputy Commissioner of Taxes authorised as such by the State Government under sub-section (4) of section 3 to hear and decide appeals under section 79;
 - (4) **"Appellate Tribunal"** means the Appellate Tribunal constituted under section 4 of this Act;
 - (5) **"appointed day"** in relation to any provision of this Act, means the date on which such provision comes into force;
 - (6) **"assessment"** means the determination of turnover of a dealer to ascertain his tax liability under this Act and includes provisional assessment, self-assessment, audit assessment and reassessment made under this Act;
 - (7) **"business"** includes.-
 - (a) any trade, commerce or manufacture;
 - (b) any adventure, concern in the nature of trade, commerce or manufacture;
 - (c) any transaction in connection with, or incidental to or ancillary to trade, commerce, manufacture, adventure or concern;
 - (d) any transfer of property in goods involved in execution of a works contract or transfer of the right to use any goods for any purpose or delivery of

- goods on hire purchase or by any system of payment by installments;
- (e) any occasional transaction in the nature of such trade, commerce, manufacture, adventure or concern whether or not there is volume, frequency, continuity or regularity of such transaction;

Whether or not such trade, commerce, manufacture, adventure, concern or transaction is effected with a motive to make gain or profit and whether or not any gain or profit accrues from such trade, commerce, manufacture, adventure, concern or transaction.

Explanation- For the purpose of this clause,-

- (i) the activity of raising of man-made forest or rearing of seedlings or plants shall be deemed to be business;
- (ii) any transaction of sale or purchase of capital goods pertaining to such trade, commerce, manufacture, adventure, concern or transaction shall be deemed to be a transaction comprised in business.
- (iii) purchases of any goods, the price of which is debited in the books of accounts and sales of any goods, the proceeds of which is credited shall be deemed to be transactions comprised in business;
- (iv) any transaction in connection with, or incidental or ancillary to, the business or commencement or closure of business shall be deemed to be a transaction comprised in business;
- (8) "**capital goods**" means plant, machinery, equipment, moulds and dies purchased for the purpose of manufacturing or processing of goods in the State or for use in packing of such goods excluding civil structures, and any other goods as may be notified by the Government, and used in the furtherance of any business and where the purchase there of has been capitalized;
- (9) "**casual dealer**" means a person who whether as principal, agent or in any other capacity, carries on occasional transactions in the nature of a business involving buying, selling, supplying or distribution of goods or conducting any exhibition-cum-sale in the State, whether for cash or for deferred payment or for commission, remuneration or other valuable considerations;
- (10) "**Commissioner**" means a person appointed to be the Commissioner of Taxes for carrying out the purposes of the Act;
- (11) "**company**" and "**director**" shall have the meanings respectively assigned to them in the Companies Act, 1956; (Central Act 1 of 1958)
- (12) "**contractee**" means any person for whom or for whose benefit a works contract is executed;
- (13) "**contractor**" means any person who executes a works contract and includes a sub-contractor;
- (14) "**to cultivate personally**" with all its grammatical variations and cognate expressions means to carry on any agricultural operation on one's own account,-
- (i) by one's own labour, or
- (ii) by the labour of one's family, or
- (iii) by servants on wages payable in cash or kind (but not in crop share), or by hired labour under one's personal supervision or the personal supervision of any member of one's family.

Explanation I.- A widow or a minor, or a person who is subject to any physical or mental disability or is a serving member of the armed forces of the Union, shall be deemed to cultivate land personally if it is cultivated by her or his servants or by hired labour. *Explanation II.-* In the case of a Hindu Undivided Family, land shall be deemed to be cultivated personally, if it is cultivated by any member of such family;

(15) **"dealer"** means any person, who carries on (whether regularly or otherwise) the business of buying, selling, supplying or distributing goods directly or indirectly, for cash or deferred payment or for commission, remuneration or other valuable consideration, and includes.-

- (i) a local authority, body corporate, company, any co-operative society or other society, club, firm, Hindu Undivided Family or other association of persons with carries on such business;
- (ii) a factor, broker, commission agent, del credere agent or any other mercantile agent, by whatever name called, who for the purposes of or in connection with or incidental to or in the course of the business, buys, sells, supplies or distributes goods belonging to any principal or principals, whether disclosed or not;
- (iii) an auctioneer, who sells or auctions goods belonging to any principal whether disclosed or not and whether the offer of the intending purchaser is accepted by him or by the principal or a nominee of the principal.

Explanation I- Every person who acts within the state as an agent of a dealer residing outside the state and buys, sells, supplies or distributes goods in the state or acts on behalf of such dealer as,-

- (a) A mercantile agent as defined in the Sale of Goods Act. 1930, or **(Central Act 3 of 1930)**
- (b) An agent for handling of goods or documents of title relating to goods; or
- (c) An agent for the collection or the payment of the sale price of goods or as a guarantor for such collection or such payment.

Shall be deemed to be a dealer for the purposes of this Act. Explanation II- Every local branch or office in the State of a firm registered outside the State or a company or other body corporate, the principal office or head quarter thereof is outside the State, shall be deemed to be a dealer for the purposes of this Act;

- (iv) a person who carries on the business of transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
- (v) a person who carries on the business of transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;
- (vi) a person who carries on the business of delivery of goods on hire purchase or any system of payment by installments;
- (vii) a casual dealer,
- (viii) an advertising concern or agency;
- (ix) a department of the Central Government or any State Government or a local authority, Panchayat, Municipality, Development Authority, Cantonment Board or any autonomous or statutory body or an industrial, commercial, banking, insurance or trading undertaking whether or not of the Central Government or any of the State Governments or of a local authority, if it sells, supplies or distributes goods, for cash or for deferred payment or other valuable considerations, whether or not in the course of business;
- (x) a person who, for the purposes of or in connection with or incidental to or in the course of his business disposes of any goods as unclaimed or confiscated, or unserviceable or scrap, surplus, old, obsolete or as discarded material or waste products by way of sale;
- (xi) a person who, under any provisions of this Act, has been presumed to have made sales or purchases of any goods.

Exception I- An agriculturist who sells exclusively agricultural produce grown on land cultivated by him personally, shall not be deemed to be a dealer in respect of such sales within the meaning of this clause but when the agriculturist is a company, a firm or a body of persons other than a Hindu

Undivided Family this exception shall not be applicable.

Exception II- An educational institution carrying on the activity of manufacturing, buying or selling of goods, in the performance of its functions for achieving its objects, shall not be deemed to be a dealer with the meaning of this clause;

- (16) **"declared goods"** means goods declared from time to time under section 14 of the General Sales Tax Act, 1956 to be of special importance in course of inter-state trade or commerce; **(Central Act 74 of 1956)**
- (17) **"document"** means title deeds, writings or inscriptions and includes electronic record and data, computer programmes, computer tapes, computer discs, photographs, video tapes and the like, that furnishes evidence;
- (18) **"earlier law"** means the Assam General Sales Tax Act, 1993, or the Assam Taxation (On Luxuries) Act, 1997 as amended from time to time, and includes enactments which have validated anything done or omitted to be done under the said Acts; **(Assam Act XII of 1993 Assam Act VIII of 1997)**
- (19) **"firm", "partner" and "partnership"** shall have the meaning respectively assigned to them in the Indian Partnership Act, 1932. **(Central Act 9 of 1932)**
- (20) **"goods"** means all materials, commodities and articles and all other kinds of movable property, whether tangible or intangible, and includes,-
 - (i) livestock.
 - (ii) computer software, subscriber identification module (SIM) cards and the like,
 - (iii) all materials (whether as goods or in some other form) involved in the execution of works contracts, transfer of right to use or hire purchase or payment by installments, or those to be used in the fitting out, improvement or repair of movable or immovable property;
 - (iv) growing crops, grass, trees, plants and things attached to or forming part of the land which are agreed to be severed before the sale or under the contract of sale,
but does not include newspapers, electricity, money, actionable claims, stocks, shares and securities;
- (21) **"goods vehicle"** means any kind of vehicle used for carriage of goods either solely or in addition to passengers and includes an auto vehicle, a bicycle, a rickshaw, a push cart including animal driven cart, an animal carrying load or a person carrying goods, a boat or a steamer or a vessel;
- (22) **"Government"** means the Government of Assam;
- (23) **"gross turnover"** means,-
 - (i) for the purpose of levy of tax, the aggregate of the amount of sale price received or receivable by a dealer whether as principal, agent or in any other capacity in respect of sale of all taxable and tax-free goods, at all places of business in the State, during any prescribed period, including sale price in respect of sales in the course of inter-state trade or commerce or sales outside the State or sales in the course of import into or export out of the territory of India. Explanation.- The amount received by a dealer on account of price variation or price escalation in respect of sale or supply of goods shall be deemed to form part of Gross Turnover of the financial year during which it is actually received; (ii) for the purpose of levy of tax, the aggregate of the amounts of purchase price paid and payable by a dealer in respect of all purchases of goods made by him during any prescribed period;

Amendment: In Section 2, in clause (23), in sub-clause (i), the word "sales" and in sub-clause (ii) the word "purchase" has been omitted by Assam Act No. IX of 2008 published in the Assam Gazette vide Notification No. LGL.6/2003/Pt/132 Dtd. the 8th April, 2008.

- (24) **"import"** means bringing or receiving of goods in the State, whether from other State of Union Territory in the country or from outside the country, as a result of purchase or otherwise;
- (25) **"importer"** means a dealer who makes first sale of any goods after the import of such goods in the State;
- (26) **"input tax"** means the amount paid or payable by way of tax under this Act by a purchasing registered dealer to a selling registered dealer on the purchase of goods in the course of his business;
- (27) **"lease"** means any agreement or arrangement whereby the right to use any goods for any purpose is transferred by one person to another (whether or not for a specified period) for cash, deferred payment or other valuable consideration without the transfer of ownership of goods and includes a sub-lease but does not include any transfer on hire purchase or any system of payment by installments;
- (28) **"lessee"** means any person to whom the right to use any goods for any purpose is transferred under a lease;
- (29) **"lessor"** means any person by whom the right to use any goods for any purpose is transferred under a lease;
- (30) **"manufacture"** means any activity that brings out a change in an article or articles as a result of some process, treatment, labour and results in transformations into a new and different article so understood in commercial parlance having a distinct name, character use, but does not include such activity of manufacture as may be prescribed;

Amendment :The word "*means*" has been substituted instead of "includes" vide notification no.LGL.6/2003/Pt./150 Dtd. 12th February, 2009 published in the Assam Gazette Extraordinary No. 52 Dtd. 12th February,2009.

- (31) **"manufacturer"** means the dealer who makes first sale of any goods after manufacture of such goods inside the State.
- (32) **"month"** means a month reckoned according to the English calendar;
- (33) **"output tax"** in relation to a registered dealer means the tax charged or chargeable under this Act in respect of the goods sold by that dealer;
- (34) **"person"** includes.-
- (i) an individual;
 - (ii) a Hindu Undivided Family (HUF);
 - (iii) an association of persons or body of individuals, whether incorporated or not,
 - (iv) a firm,
 - (v) a company;
 - (vi) the Central Government or any State Government or any Union Territory in India;
 - (vii) any local authority or any autonomous or statutory body; and (viii) every artificial juridical person not falling within any of the preceding sub-clauses;
- (35) **"place of business"** means any place where a dealer carries on the business and includes,-
- (i) any shop, ware-house, godown or other place where a dealer stores his goods;
 - (ii) any place where a dealer produces or manufactures goods;
 - (iii) any place where a dealer keeps his books of accounts;
 - (iv) in any case where a dealer carries on business through an agent (by whatever name called), the place of business of such agent, and
 - (v) any vehicle or vessel or any other carrier wherein the goods are stored or which is used for transporting the goods;
- (36) **"prescribed"** means prescribed by the rules made under this Act.

- (37) **"Prescribed Authority"** means any person appointed to assist the Commissioner under sub-section (I) of section 3 to whom all or any of the powers of the Commissioner for the levy and collection of tax conferred by or under this Act or rules framed there under has been delegated by the Commissioner under sub-section (9) of that section;
- (38) **"raw materials"** means goods used as an ingredient in the manufacture of any other goods or any article consumed in the process of manufacture which has a direct nexus with the finished product or to which the finished product can directly be attributed but it does not include stores, fuel and lubricants required in the process of manufacture;
- (39) **"registered dealer"** means a dealer registered under this Act.
- (40) **"resale"** means a sale of purchased goods,-

- (i) in the same form in which they were purchased; or
- (ii) without using them in the manufacture of any goods; or
- (iii) without doing anything to them which amounts to, or results in a manufacture, and the word "re-sell" shall be construed accordingly,

- (41) **"reverse input tax"** means that portion of input tax of the goods for which credit has been availed of but such goods are used subsequently for any purpose other than resale or manufacture of taxable goods or use as containers or use as packing materials of taxable goods within the State;

- (42) **"rules"** means the rules made under this Act;

- (43) **"sale"** with all its grammatical variations and cognate expressions means every transfer of the property in goods (other than by way of mortgage, hypothecation, charge or pledge) by one person to another for cash or for deferred payment or other valuable consideration and includes,-

- (i) a transfer, otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment or other valuable consideration;
- (ii) a transfer of property in goods (whether as goods or in some other form) involved in the execution of a works contract;
- (iii) a delivery of goods on hire purchase or any system of payment by installments,
- (iv) a transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration;
- (v) a supply of goods by any unincorporated association or body of persons to a member thereof for cash; deferred payment or other valuable consideration;
- (vi) a supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (whether or not Intoxicating) where such supply or service is for cash or deferred payment or other valuable consideration;
- (vii) a transfer of property in goods by the Central Government or the State Government or any local authority or autonomous or statutory body for cash or for deferred payment or for any other valuable consideration, whether or not in the course of business,
and such transfer, delivery or supply of any goods shall be deemed to be a sale of those goods by the person making the transfer, delivery or supply and a purchase of those goods by the person to whom such transfer, delivery or supply is made and the words "sell" and "buy" shall be construed accordingly,

Explanation I.- Where there is a single contract of sale or purchase in respect of goods situated in the State as well as in place outside the State, the provisions of this explanation shall apply as if there were separate contracts of sale or purchase in respect of the goods situated at each of such places.

Explanation II- Notwithstanding anything to the contrary contained in this Act, or any other law for the time being in force, two independent sales or purchases shall, for the purposes of this Act, be deemed to have taken place,-

- (a) when the goods are transferred from a principal to his selling agent and from the selling agent to the purchaser, or
- (b) when the goods are transferred from the seller to a buying agent and from the buying agent to his principal,

if the agent is found in either of the cases aforesaid,

- (i) to have sold the goods at one rate and passed on the sale proceeds to his principal at another rate, or
 - (ii) to have purchased the goods at one rate and passed them to his principal at another rate, or
 - (iii) not to have accounted to his principal for the entire collection or deduction made by him, in the sales or purchases effected by him on behalf of his principal, or
 - (v) to have acted for a fictitious or non-existent principal;
- (44) "**sale price**" means the amount of valuable consideration paid or payable to a dealer for any sale made including any sum charged for anything done by the dealer in respect of goods at the time of or before delivery of the goods other than the cost of freight or delivery or the cost of installation in cases where such cost is separately charged.

Explanation I- For the purpose of this clause 'sale price' includes,-

- (i) the amount of duties or fees levied or leviable on the goods under the Central Excise Act, 1944 or the Customs Act, 1962 or the Assam Excise Act, 1910 or under any other enactment whether such duties or fees are paid or payable by or on behalf of the seller or the purchaser or any other person;
- (ii) in relation to the transfer of property in goods (Whether as goods or in some other form) involved in the execution of works contract, such amount received or receivable as consideration;
- (iii) in relation to the delivery of goods on hire purchase or any system of payment by installments, the amount of valuable consideration payable to a person for such delivery;
- (iv) in relation to transfer of the right to use any goods for any purpose (whether or not for a specified period) the valuable consideration received or receivable for such transfer, and
- (v) the amount received by the seller by way of deposit whether refundable or not, which has been received whether by way of a separate agreement or not, in connection with or incidental or ancillary to, the said sale of goods.

Explanation II- For the propose of this clause, 'sale price' does not include,-

- (i) tax charged or chargeable under this Act;
 - (ii) any amount allowed by seller of goods to the purchaser as cash discount or commission or trade discount at the time of sale of goods according to the practice normally prevailing in the trade;
- (45) "**Schedule**" means the schedule appended to this Act;
- (46) "**State**" means the State of Assam;
- (47) "**State Representative**" means any person appointed by the Government under sub-section (21) of section 4 to be the State Representative and includes an officer not below the rank of Deputy Commissioner of Taxes empowered by the Commissioner to receive on his behalf notices issued by the Tribunal and generally to appear, act and plead on his behalf in all proceedings before the Tribunal and includes an officer appointed to act on

his behalf in his absence;

- (48) **"tax"** means a tax on a sale or purchase as the case may be, payable under this Act and includes any amount payable by way of composite tax;
- (49) **"tax fraction"** means the fraction calculated in accordance with the formula $r/(r+100)$ where "r" is the rate of tax applicable to the sale;
- (50) **"tax-free goods"** means goods against which the rate of sales tax is shown to be NIL in the First Schedule;
- (51) **"tax invoice"** means a document listing goods sold with price, quantity, tax involved and other details as may be specified in this Act or prescribed by Rules;
- (52) **"tax period"** means a calendar month, a quarter or a year, as the case may be, as may be prescribed;
- (53) **"taxable goods"** means goods other than tax-free goods;
- (54) **"taxable turnover"** means the turnover on which a dealer is liable to pay tax as determined after making such deductions from his gross turnover and in such manner as may be prescribed;
- (55) **"transporter"** means any person who, for the purposes of or in connection with or incidental to or in the course of his business transports or causes to transport goods, or holds goods in custody, for delivery to any person after transportation and includes railway, shipping company, air cargo terminal, postal service and courier service;
- (56) **"value added tax"** means a tax on sale of any goods at every point in the series of sales made by the registered dealer with the provisions of credit of input tax paid at the points of previous purchases thereof;
- (57) **"works contract"** includes any agreement for carrying out for cash, deferred payment or other payment or other valuable consideration, the building, construction, fabrication, erection, installation, fitting out, improvement, modification, repair or commissioning of any movable or immovable property;
- (58) **"year"** means the financial year beginning from 1st April and ending with 31st March;
- (59) **"Zero-rated sales"** means the specified sales on which no tax is chargeable but are nevertheless eligible for input tax credit.

Amendment: In section (2), clause (59) has been substituted by Assam Act No. XXXVI of 2005, published in the Assam Gazette vide Notification No.LGL.6/2003/pt/38 Dtd. 9th September, 2005.