

## NAGALAND ACT 9 OF 1967

[THE NAGALAND (SALES OF PETROLEUM AND PETROLEUM PRODUCTS INCLUDING LUBRICANTS) TAXATION ACT, 1967.]

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7<sup>th</sup> October, 1967.]

**Preamble.-** WHEREAS it is expedient to repeal the Assam (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricants) Taxation Act, 1956 (Assam Act IX of 1956) and to re-enact one to impose tax on sales of Petroleum and Petroleum Products, including Motor Spirit, Lubricants, Diesel Oil and Crude Oil for the purpose of making an addition to the public revenue;

AND WHEREAS the previous sanction of President of India has been obtained under the proviso to Articles 304 (b) of the Constitution of India;

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

**Short title, extent and commencement.-** (1) This Act may be called the Nagaland (Sales of Petroleum and Petroleum Products, including Motor Spirit and Lubricants) Taxation Act, 1967.

(2) It extends to the whole of Nagaland.

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

(2) "Crude Oil" means crude petroleum in its natural state;

(3) "Dealer" means any person who carries on the business of selling or supplying motor spirit or lubricant or both in the State of Nagaland whether for commission, remuneration or otherwise and includes a manufacturer or importer or any society, club or association which sells or supplies motor spirit or lubricant or both to its members;

**Explanation.** – The Manager or agent of a dealer who resides outside Nagaland and sells taxable goods brought by him into Nagaland from any place outside Nagaland shall in respect of such business be a dealer for the purpose of the Act;

(4) "Government" means the State Government of Nagaland;

(5) "Lubricant" means any form of oil, grease or other lubricating substance used for lubricating the internal machinery of automobiles or stationary internal combustion engines;

(6) "Motor Spirit" means any substance which by itself or in admixture with other substances is ordinarily used directly or indirectly to provide reasonably efficient fuel for automotive or stationary internal combustion engines, and includes petrol, diesel oil and other internal combustion oils but does not include furnace oil, coal or charcoal;

(7) "Person" means any individual, or association or body of individuals, and includes a Department of any Government, a Hindu undivided or joint family, a firm and a company, whether incorporated or not;

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

(9) "Sale" with all its grammatical variations and cognate expressions means payment or other valuable consideration;

Provided that any shortage in excess of one per centum of the quantities of motor spirit received into stock by a dealer for sale shall, unless the contrary is proved, be deemed to be a sale for purposes of this Act;

(10) "Taxable goods" means such goods as are specified in sub-section (1) of section 3 of the Act; and

(11) "Year" means the financial year.

**Liability to tax.** -3. (1) There shall be levied and collected from every dealer a tax on sales of the following goods at the rates specified below:-

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|--|--------------------------|
| (i) Motor Spirit (except diesel oil and internal combustion oils other than petrol)..... | Eight paise per litre,   |
| (ii) Lubricant.....  | Nine paise per litre,    |
| (iii) Diesel oil and other internal combustion oils other than petrol.....               | Seven paise per litre,   |
| (iv) Crude oil.....  | Advalorem three percent. |

(2) Nothing in sub-section (1) shall be deemed to render any dealer liable to tax on the sale of taxable goods where such sale takes place:-

- (i) outside the State of Nagaland;
- (ii) in the course of the import into or out of the territory of India; or
- (iii) in the course of inter-State trade or commerce as laid down in section 3 of the Central Sales Tax Act 1956;

(3) Any shortage in excess of one per cent of the quantities of each consignment of motor spirit received into stock by a dealer for sale shall unless the contrary is proved, be

presumed to be due to sale for the purpose of sub-section (1), and the tax shall be levied and collected from the dealer accordingly.

**Exemption.-4.** Notwithstanding anything contained in this Act, the Government may without conditions or upon conditions exempt any dealer from liability to pay any tax under this Act or may refund any tax or any portion thereof, collected under this Act;

Provided that nothing shall be construed to oblige or impose a duty on the Government at any time to exercise the powers under this section conferred upon it.

**Taxing Authorities.-5.** (1) The State Government may, for carrying out the purposes of this Act, appoint a Commissioner of Taxes, and such other persons to assist him as it think fit.

(2) Persons appointed under sub-section (1) shall exercise such powers as may be conferred, and perform such duties as may 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.**(XLV of 1860).**

**Compulsory Registration.-6.** (1) No dealer shall, while being liable to pay tax under the provisions of this Act, carry on business as a dealer unless he has been registered and possesses a certificate of registration.

(2) Every dealer required by sub-section (1) to be registered shall apply for registration to the Commissioner in the prescribed manner, and obtained a certificate of registration.

(3) On receipt of an application under sub-section (2), the Commissioner shall, if he is satisfied after such enquiry as may be deemed necessary that application is in order, register the applicant.

**Registration by Commissioner.-7.** (1) The Commissioner may in addition to take any other action under the provisions of this Act, require any dealer who, in his opinion, is liable to registration but has not made an application in this behalf, to apply for registration and register him;

Provided that no action under this sub-section shall be taken unless the Commissioner has given notice to the dealer of his intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Registration made under sub-section (1) shall take effect as if these had been made on the dealer's application under sub-section (2) of section 6.

**Certificates of Registration. -8.** (1) A dealer registered under section 6 or section 7 shall be granted a certificate of registration in such form as may be prescribed, which shall

specify the class or classes of goods in which at the time of the grant of the said certificate the dealer carries on business, and such other particulars as may be prescribed.

(2) The Commissioner may, on petition or otherwise cancel or amend time to time any certificate of registration.

[“Provided that no action under this sub-section shall be taken unless the Commissioner has given notice to the dealer of this intension so to do and has allowed him a reasonable opportunity of being heard.”]<sup>1</sup>

(3). The Commissioner shall cancel certificate of registration when-

(a) the business in respect of which the certificate was issued has been discontinued or transferred; or

(b) the liability to pay tax in respect of such business has ceased under this Act.

**Suspension or cancellation of registration certificate.-9.(1)** The Commissioner may suspend, for such period as he considered fit, or cancel any certificate of registration where-

(a) any tax payable under section 3 is not duly paid by the holder of such certificate;

or

(b) there is any breach of any of the condition subject to which a registration certificate is granted or renewed; or

(c) the holder of the registration certificate has been convicted under the provision of the Act;

Provided that no order prejudicial to a dealer shall be passed under this sub-section without giving him a reasonable opportunity of being heard;

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1. Inserted *Vide* Nagaland Act 6 of 1969, See Nagaland Gazette of 10<sup>th</sup> April 1969.

Provided further that such cancellation shall not absolve the holder of the registration certificate from his liability to pay tax and other dues under the Act nor bar other action as may be taken against him under the Act.

(2) The holder of a registration certificate shall not be entitled to any compensation for any loss or damage directly or indirectly suffered by him for its suspension or cancellation under sub-section (1).

**Returns.-10.** (1) Every registered dealer shall furnish such returns of his turn-over by such dates and to such authority as may be prescribed.

(2) In the case of any other dealer whose business, in the opinion of the Commissioner, is such as to render him liable to pay tax under this Act for any year or part thereof, the Commissioner may serve within eight years of the completion of that a notice in the prescribed form upon him requiring him to furnish a return of his turn-over, and such dealer shall thereupon furnish the return within the period and to the authority mentioned in the notice.

(3) If any dealer discovers any omission or other error in any return furnished by him either under sub-section (1) or sub-section (2) he may furnish as revise return at any time before assessment is made on the original return.

(4) No return submitted under this section shall be levied unless it is accompanied by a treasury receipt showing payment of the tax due as provided in sub-section (2) of section 23.

**Assesment.-11.** (1) If the Commissioner is satisfied that a return furnished under section 10 in respect of any period is correct and complete, he shall, by an order in writing, assess the dealer and determine the tax payable by him on the basis of such return.

(2) If the Commissioner is not satisfied that a return furnished under section 10 is correct and complete, he shall serve on the dealer a notice requiring him, on the date, and at the hour and place specified therein, either to attend in person or to produce or cause to be produced any evidence on which he may rely in support of his return.

(3) On the day specified in the notice under sub-section (2) or as soon afterwards as may be, the Commissioner, after hearing such evidence as the Commissioner may require, shall, by an order in writing, assess the dealer and determine the tax payable by him on such assessment.

(4) If a dealer fails to make a return as required by section 10 or having made the return, fails to comply with all the terms of the notice issued under sub-section (2) of this section, the Commissioner shall, by an order in writing, assess to the best of his judgment the dealer, and determine the tax payable by him on the basis of such assessment;

Provided that before making assessment the Commissioner may allow the dealer such further time as he thinks fit to make the return or comply with the terms of the choice issued under sub-section (2) of this section.

**Cancellation of assesment.-12.** Where a dealer, in the case of an assessment completed under sub-section (4) of section 11, satisfies the Commissioner, within one month

from the date of issue of a notice of demand as hereafter provided, that he was prevented by sufficient cause from making the return required by section 10 or that he did not receive the notice issued under sub-section (2) of section 11 or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying with the terms of the notice, the Commissioner shall cancel the assessment and make a fresh assessment in accordance with the provisions of section 11.

**Assessment and penalty in case of evasion by unregistered persons.-13.** If upon information which has come into his possession, the Commissioner is satisfied that any person while being liable to pay tax under this Act in respect of any period, has nevertheless willfully failed to apply for registration and to pay the tax, he shall, after giving the person a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of tax, if any, due from him in respect of such period and all subsequent period and the Commissioner may also direct that in addition to the amount so assessed a sum not exceeding that amount shall be recovered from the defaulter ]by way of penalty.

**Assessment and penalty in case of evasion by registered persons-14.** If upon information which has come into his possession, the Commissioner is satisfied that any person registered under this Act has not paid the amount of tax due from him or a part thereof for any period, he shall proceed against such person in the manner laid down in section 13.

**Rectification.-15.** (1) The authority which made an assessment or passed an order on appeal or revision in respect thereof, may at any time within eight years from the date of such assessment or order and of its own motion rectify any mistake apparent from the records of the case, and shall within the like period, rectify any such mistake as has been brought to its notice by a dealer.

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

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

**Recoveries.-16.** (1) Any sum due under this Act shall be recoverable as an arrear of public demand under the Bengal Public Demands Recovery Act, 1913.

**Penalties.-17. (1)** If the Commissioner, in the course of any proceeding under this Act is satisfied that any dealer-

- (a) has without reasonable cause, failed to furnish the return which he was required to furnish under section 10 or 13, or has, without reasonable cause, failed to furnish it within the time allowed and in the manner required; or
- (b) has without reasonable cause. Failed to comply with a notice under sub-section (2) of section 11; or
- (c) has concealed the particulars of his sales or deliberately furnished inaccurate particulars of such sales; or
- (d) has evaded in any way the liability to pay tax,

he may direct that such dealer shall pay by way of penalty, in addition to the tax payable by him, the sum not exceeding one and a half times that amount.

(2) No order under sub-section (1) shall be made unless the dealer has been heard or has been given reasonable opportunity of being heard.

(3) No penalty under this section shall be imposed by an officer appointed to assist the Commissioner without the previous sanction of the Commissioner.

**Assessment not to bar prosecution or penalties. -18.** Any assessment made under this Act shall be without prejudice to any prosecution or penalty instituted or imposed under the provisions of this Act.

**Appeal.-19** (1) Any dealer objecting to an order of assessment or penalty passed under this Act may, within thirty days from the date of the service of such order, appeal to the prescribed authority, against such assessment or penalty;

Provided that no appeal shall be entertained by the said authority unless he is satisfied that the amount of tax assessed or the penalty levied, if not otherwise directed by him, has been paid;

Provided further that the authority before whom the appeal is filed admits it after the expiration of thirty days, if such authority is satisfied that for reasons beyond the control of the applicant or for any other sufficient cause it could not be filed within time.

(2) Every appeal under sub-section (1) shall be presented in the prescribed form and shall be verified in the prescribed manner.

(3) The Appellate Authority shall fix a day and place for hearing of the appeal, and may from time to time adjourn the hearing and make or cause to be made, such further enquiry as may be deemed necessary.

(4) In disposing of an appeal under sub-section (1), the Appellate authority may:-

(a) confirm, reduce, enhance or annul the assessment; or

(b) set aside the assessment and direct a fresh assessment after such enquiry as may be ordered; or

(c) confirm, reduce or annul the order of penalty.

(5) Every order passed in appeal under this section shall, subject to the provision of revision under section 20, be final.

**Revision by Commissioner.** -20. (1) The Commissioner may call for and examine the record of any proceeding under this Act, and if he consider that any order passed therein by any person appointed under section 5 assist him, is erroneous in so far as it is prejudicial to the interest of the revenue, he may, after giving the dealer 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 assessment, or canceling the assessment and directing a fresh assessment.

(2) In the case of any order other than 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 a dealer for revision, call for a record of any proceeding under this

Act in which such order has been passed and may make such enquiry or cause such enquiry to be made, and subject to the provisions of this Act, may pass such orders thereon, not being an order prejudicial to the dealer, as he thinks fit.

(3) In the case of a petition for revision under sub-section (2) by a dealer, the petition must 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 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 19 or 21 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 State Government the dealer has not waived his right of appeal; or
- (b) where the order is pending on appeal under section 19; or
- (c) where the order has been made the subject of an appeal to the State Government.

**Explanation:-** An order by the Commissioner declining to interfere shall, for the purpose of this section, be deemed not to be an ]order prejudicial to the dealer.

**Appeal to the State Government.-21.** (1) Any dealer aggrieved by an order passed in appeal under section 19 or passed in revision under sub-section (1) of section 20 may appeal to the State Government within sixty days of the date on which such order is communicated to him.

(2) The State Government 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 State Government 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.

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

**Reference.-** 22. (1) Within sixty days from the date of service of any order under section 21, the dealer may, by person in writing, require the State Government to refer to the High Court any question in of law arising out of such order of the State Government or the State Government may make such reference out of its own motion. Where the petition is made by a dealer, it shall be accompanied by a fee of one hundred rupees.

(2) Within sixty days of the receipt of the petition under sub-section (1), the State Government shall, subject to the provision in sub-section (3), draw up, after such hearing and enquiry as may be considered necessary, a statement of the case and refer it with its opinion thereon to the High Court.

(3) The State Government may reject the application under sub-section (1) and refuse to state the case on the ground that it is time barred or otherwise incompetent, or that no question of law arises and the applicant may, within thirty days of such refusal withdrawal the application and if he does so, the fee paid shall be refunded.

(4) Where the application under sub-section (1) is rejected on the ground that no question of law arises and where no action is taken by the applicant under sub-section (3), he may, within ninety days from the date of such rejection, apply to the High Court against the order rejecting the application, and if, upon receipt of such an application, the High Court is not satisfied with the correctness of the decision, it may required the State Government to state the case and refer it and, on receipt of any such requisition, the State Government shall state and refer the case accordingly.

(6) Where the High Court is not satisfied that the statement in a case refer under this section is sufficient to enable it to determine the questions of law raised thereby, it may refer the case back to the State Government to make such additions thereto or such alterations therein as may be directed and the State Government shall thereupon comply with the directions and re-submit the case accordingly.

(7) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the State Government a copy of such judgment under the seal of the Court and signature of the Registrar, and the State Government shall, on receipt of the copy or the judgment, order disposal of the case accordingly.

(8) Where a reference is made on the application of a dealer, the costs shall be in the discretion of the High Court.

(9) Notwithstanding that a reference has been made under this section to the High Court, payment of tax shall not be stayed pending disposal of such reference; but where the amount of tax is reduced as the result of the reference, the excess shall be refunded in accordance with the provisions of this Act.

(10) Section 5 of the Indian Limitation Act, 1908 shall apply to an application to the High Court by a dealer under this section.

**Payment of Tax.-** 23. (1) Tax payable under this Act shall be paid in the manner hereinafter provided.

(2) Before any registered dealer furnishes the returns required by sub-section (1) of section 10, he shall in the prescribed manner pay into a Government Treasury the full amount of tax due from him under this Act on the basis of such returns and shall furnish along with the returns a receipt from such treasury in token of payment of such tax.

(3) Where a revised return is submitted by a registered dealer under sub-section (3) of section 10, and the revised return shows a greater amount of tax to be due than was payable on the basis of the original return, the dealer shall pay the excess amount of tax in the manner provided in sub-section (2) and shall furnish along with the revised return a receipt in token of payment of such excess tax.

(4) The amount of tax due under the provision of this Act-

(a) in excess of payments already made under sub-section (2) and (3); or

- (b) where no payment has been made, shall be paid by the dealer by such date as may be specified in the notice of demand and where no such date is specified, it shall be paid within thirty days from the date of service of the notice;

Provided that the Commissioner may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of payment of the dues or allow such dealer to pay the same by installments and in that case the dealer shall not be deemed to be in default till the date as extended or the last date of payment by installment is over.

(5) Where a dealer is in default, the Commissioner 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.

**Refunds.-** 24. The Commissioner shall, in the prescribed manner, refund to a dealer any sum paid by such dealer in excess of the sum due from him under this Act, either by cash payment or at the discretion of the Commissioner by set off against the sum due from him in respect of any other period.

**Remission.** – 25. The State Government, for reasons to be recorded in writing, may remit the whole or part of the amount of the tax or penalty payable in respect of any period by any registered dealer who has suffered heavy loss due to any natural calamity.

**Offices and penalties etc.-** 26 WHOEVER.

(1) carries on business as a dealer and acts in contravention of any of the provisions of this Act; or

(2) fails, without reasonable cause, to submit in due time any return as required by or under the provisions of this Act, or submits a false return; or

(3) fails when required by or under the provisions of this Act, to keep accounts or records of sales; or

(4) fails, when required by or under the provisions of this Act, to produce any accounts, evidence or documents or to furnish any information; or

(5) fails or neglects to comply with any requirement made of him under the provisions of this Act; or

(6) knowingly produce incorrect accounts, registers or documents or knowingly furnishes incorrect information; or

(7) fraudulent or willfully evades the payment of any tax due under this Act, or conceals his liability to such tax; or

(8) fails to pay within the time allowed and tax assessed or any penalty levied on him; or

(9) prevents or obstructs inspection or entry by any officer acting under the provisions of this Act; or

(10) demands or charges from any purchaser sales tax as such at a rate higher than that payable under the provisions of the Act; shall, on conviction before a Magistrate and in addition to any tax or penalty or both that may be due from him be punishable with imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both, 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.

**False statement in declaration.-** 27. Whoever makes a statement in a 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.

**Maintenance of accounts.-** 28. Every registered dealer or other dealer on whom a notice has been served to furnish returns under the provisions of this Act, shall keep a true accounts of taxable goods produced, made or processed by him or brought by him into Nagaland, from any place outside Nagaland for the purpose of sale in Nagaland, and of sales, and if the accounts maintained in the ordinary course do not, in the opinion of the Commissioner, enable him to apply a proper check on the returns furnished under the provisions of the Act, he may require the dealer to keep such accounts in such form as he may, subject to anything that may be prescribed in that connection, direct.

**Power to order production of accounts etc: -** 29. Subject to such conditions and restrictions as may be prescribed, the Commissioner may, for the purposes of this Act,

require any dealer to produce before him any accounts, registers, vouchers or other documents relating to the production, making, processing, import, sale or purchase of taxable goods or matters connected therewith.

**Issue of Warrants.-** 30. (1) The Commissioner may issue a warrant-

- (a) for the arrest of any person whom he has reason to believe or have committed an offence punishable under this Act; or
- (b) for the search, whether by day or by night, of any building, vehicles or place in which he has reason to believe that any taxable goods is sold or kept for sale or consumption.

(2) All warrants issued under this section shall be executed in accordance with the provisions of the Code of Criminal Procedure, 1898 (**V of 1898**), by a Police Officer, or if the Commissioner deems fit, by any other person.

**Power for entry, inspection, search, seizure, detention and arrest without warrant.-** 31. The Commissioner may-

- (a) inspect at all reasonable times all accounts and vouchers relating to stock, purchases, sales and deliveries of taxable goods kept by manufacturers, importers and dealers and the stock of taxable goods with them;
- (b) enter and search, at any time, by day or by night, any building, vehicle or place in which he has reason to believe that any taxable, goods liable to confiscation under this Act is kept or concealed;
- (c) seize any taxable goods or any other article which he has reason to believe is liable to confiscation under this Act; and
- (d) detain and arrest any person whom he has reason to believe to be guilty of any offence punishable under this Act.

**Searches how made.-** 32. All searches made under section 28 shall be made in accordance with the provisions of the Code of Criminal Procedure 1898 (**V of 1898**).

**Procedure for arrest without warrant.-** 33. The provisions of Section 61 of the Code of Criminal Procedure 1898, shall apply to all arrests without warrant made under section 31.

**Power to investigation.-** 34. (1) Every officer appointed under section 5 not below the rank of Inspector or any officer specially empowered by the Commissioner shall within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(2) Every such officer shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1898 upon Officer-in-Charge of Police Station for the investigation of cognizable offence;

Provided that if such officer is of the opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate, or that person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required before a Magistrate and shall make a full report of the case to the Commissioner and shall be guided by the order which he will receive on such report.

**Powers to grant bail.-** 35. Any officer empowered under section 34 shall have power to grant bail in accordance with the provision of the Code of Criminal Procedure, 1898, to any person arrested without warrant for any offence punishable under this Act.

**Procedure of seizure.-** 36. When anything has been seized by an officer exercising powers under section 32 and 34 such officer, after such enquiry as may be necessary-

- (a) if it appears that such thing is required as evidence in the case of any person arrested shall forward the thing to the Magistrate to whom such person is forwarded or for his appearance before whom bail has been taken;
- (b) if it appears that such thing is liable to confiscation but is not required as evidence aforesaid, shall send a report of the particulars of the seizure to the Commissioner and be guided by the orders which he will receive on such report; and

- (c) if no offence appears to have been committed, shall return the thing to the person from whose possession it was taken and shall report to the Commissioner accordingly.

**Punishment for vexatious search or arrest.-** 37. Any officer or person exercising powers under this Act, who –

- (a) without reasonable ground of suspicion, enters, or searches, or causes to be entered or searched, any building, vehicle or place; or
- (b) vexatiously or unnecessarily seizes the property of any person on the pretence of seizing or searching for anything liable to confiscation under this Act; or
- (c) vexatiously and unnecessarily detains, searches or arrests any person, shall on conviction before a Magistrate be punishable with fine which may extend to five hundred rupees.

**Punishment for vexatious delay in forwarding an arrested person.-** 38. Any officer or person exercising powers under this Act who vexatiously and unnecessarily delays forwarding to a Magistrate any person arrested under this Act and not released by him on bail, shall on conviction before a Magistrate be punishable with fine which may extend to two hundred rupees.

**Things liable to confiscation.-** 39. Whenever an offence punishable under this Act is committed, the taxable goods or any other article in respect of which the offence has been committed shall be liable to confiscation.

**Procedure in making confiscation.-** 40 (1) When in any case tried by a Magistrate, the Magistrate decides that anything is liable to confiscation under section 39, he may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation or may give the owner option to pay such fine as the Magistrate deems fit in lieu of confiscation.

(2) When an offence under this Act has been committed and the offender is not known or cannot be found and when anything not in the possession of any person but liable to confiscation under this Act cannot be satisfactorily accounted for, the Commissioner may enquire into the and decide the case and may order confiscation;

Provided that no such order shall be made before the expiration of one month from the date of seizure or without hearing any person who may claim any right thereto and any evidence produced in support of such claim.

**Power to compound offences.-** 41. (1) Subject to such condition as may be prescribed the Commissioner may, either before or after the institution of criminal proceedings under this Act accept from the person who has committed or is reasonably suspected of having committed an offence under this Act or the rules made thereunder, by way of composition of such offence-

- (a) where the offence consists of the failure to pay, or the evasion of, any tax recoverable under this Act, in addition to the tax so recoverable, a sum of money not exceeding one thousand rupees or double the amount of tax recoverable, whichever is greater, and
- (b) in any other case a sum of money not exceeding one thousand rupees in addition to the tax recoverable.

(2) on the payment of such sum of money and the tax, if any, payable under section 3 of the Commissioner, the accused person shall be discharged, the property seized, if any, shall be released and no further proceedings shall be taken against such person or property in respect of such offence.

**Cognizance of offence.-** 42. (1) No Court shall take cognizance of any offence under this Act, or under the rules made thereunder except with the previous sanction of the Commissioner and not Court inferior to that of a Magistrate of the first class shall try any such offence.

(2) All offences punishable under this Act or the rules made thereunder shall be cognizable and bailable.

**Protection of persons acting in good faith and limitation of suits and proceedings.-** 43. (1) No suit, prosecution or other legal proceedings shall be instituted against any officer of the Government for anything done or intended to be done under this Act or the rules made thereunder in good faith.

(2) No suit, shall be instituted against the Government and no suit, prosecution or other proceedings shall be instituted against any officer of the Government in respect of anything done or intended to be done under this Act unless the suit, prosecution or other proceeding is instituted within four months from the date of the act complained of.

**Restriction on movement.-** 44. No person shall transport from any railway station, air-port, post office, or any other place whether of similar nature or otherwise, notified in this behalf by the State Government, any consignment of taxable goods exceeding such quantities and except in accordance with such conditions as may be prescribed. Such conditions shall be made with a view to ensuring that there is no evasion of the tax imposed by this Act.

**Delegation of the Commissioner's powers.-** 45. Subject to such restrictions and conditions as may be prescribed, the Commissioner, may, by notification in the Official Gazette, delegate any of his powers under this Act to any official subordinate to him and such official shall thereupon exercise the said powers.

**Computation of the period of limitation.-** 46. 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 business.-** 47. If any dealer-

- (a) sells or otherwise disposes of his business or any part of his business or any place of business or effects or comes to know of any other change in the ownerships of the business; or
- (b) discontinues his business or changes his place of business or opens a new place of business; or
- (c) changes the name or nature of his business, he shall within the prescribed time inform the Commissioner accordingly; and if any such dealer dies, his legal representative shall in like manner inform the Commissioner.

**Power to make rule.-** 48. (1) The Government may, subject to the conditions of previous publication, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power, such rules, may, in particular, prescribe-

- (a) all matters expressly required or allow by this Act to be prescribed;
- (b) the regulation of the recovery of the tax leviable under section 3;
- (c) the circumstances and the manner in and the conditions under which refunds may be made or withdrawn;
- (d) the imposing on dealers, importers and manufactures the duty of furnishing returns, and keeping records and books , the prescribing of forms of such returns, records and books and the particulars to be contained therein respectively, and the manner in which the same are to be verified and all such other conditions thereof as may be necessary;
- (e) the providing for the regulation of sale and purchase of taxable goods, the assessment of tax and the issue of notices requiring payment and for the recovery of unpaid tax; and
- (f) the fees, if any, for petition, certificates and other matters.

(3) In making any rule, the Government may direct that a breach thereof shall be punishable on conviction before a Magistrate, with a fine not exceeding one thousand rupees or imprisonment not exceeding three months or both, and where the breach is a continuing one, with further fine which may extend to one hundred rupees for every day after the first during which the breach has been persisted in.

(4) Every rule made under this section shall be laid, a soon as may be after it is made, before the Nagaland 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 sessions immediately following the Nagaland Legislative Assembly agree in making any modification in the rule or the Nagaland Legislative Assembly agree that the rule should not be made, the rules 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 under that rule.

**Repeal:-** 49. The Assam (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricants) Taxation Act, 1956 as extended to Nagaland shall stand repealed:

Provided that such repeal shall not effect –

- (a) the previous operation of the said Act or anything duly done or suffered thereunder; or
- (b) any right, privilege, obligation or liability accrued, acquired or incurred under the said Act; or
- (c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the said Act; or
- (d) any investigation, legal proceeding or remedy in respect of any such right privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid:

Provided further that anything done or any action taken including any appointment or delegation made, notification, instruction or direction made, certificate of registration granted under the Act hereby repealed shall be deemed to have been done or taken under the corresponding provision of this Act and shall continue to be in force accordingly unless and until superseded by anything done or any action taken under this Act.

Received the assent of the President of India on the 2<sup>nd</sup> November, 1967.