



**The Mizoram (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricants) Taxation Act, 1973**

Act No. 6 of 1974

**Keywords:**

Dealer, Sales

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**THE  
MIZORAM  
(Sales of Petroleum and Petroleum Products,  
Including Motor Spirit and Lubricants)  
TAXATION ACT,  
1973**

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**TAXATION DEPARTMENT  
GOVERNMENT OF MIZORAM**

**THE MIZORAM**  
**(SALES OF PETROLEUM AND PETROLEUM**  
**PRODUCTS INCLUDING MOTOR SPIRIT AND LUBRICANTS)**  
**TAXATION ACT,**  
**1973**  
*(THE MIZORAM ACT NO. 6 OF 1974)*

AN ACT

to provide for the imposition of a tax on sales of petroleum and petroleum products including motor spirit and lubricants and for matters connected therewith.

Be it enacted by the Legislative Assembly India of Mizoram in the Twenty-fourth Year of the Republic of India as follows:-

**1. Short title, extent and commencement**

- (1) This Act may be called the Mizoram (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricants) Taxation Act, 1973.
- (2) It extends to the whole of the State of Mizoram.
- (3) It shall come into force on such date as the State of Mizoram may, by notification in the Official Gazette, appoint.

**2. Definitions.**

In this Act, unless the context otherwise requires:

- (1) "State Government" means the "Government of Mizoram"
- (2) "Administration of Justice Rules" means the 'Rules for the regulation of the procedure of officers appointed to administer justice in the Lushai Hills,' made by the Governor of Assam under section 6 of the Scheduled Districts Act, 1874; (Central Act 14)
- (3) "Commissioner" means the Commissioner appointed under section 5;
- (4) "dealer" means any person who sells taxable goods:-
  - (a) manufactured, made or processed by him in the State of Mizoram
  - (b) brought by him into the Mizoram State; or
  - (c) obtained by him in the State of Mizoram otherwise than by purchase.

**Explanation :** The manager or agent of a dealer who resides outside the Mizoram State and sells taxable goods brought by him into the Mizoram State from any place outside that territory shall, in respect of such business, be a dealer for the purpose of this Act;

(5) "Lubricant" means any form of oil or other lubricating substance primarily used for lubricating substance primarily used for lubricating the internal machinery or the external parts and fittings of motor vehicles, stationary internal combustion engines, steam turbines or engines, power pumps, refrigerators, dynamos and other machinery and shall include all forms of spindle oils, cutting oils and hydraulic brake fluids;

(6) "Magistrate" means the Deputy Commissioner or any Assistant Deputy Commissioner who has been empowered to administer criminal justice in the Mizoram State under the Administration of Justice Rules;

(7) "Motor Spirit" means any substance which by itself or in admixture with other substances is ordinarily used directly or indirectly to provide reasonably efficiently 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;

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

(9) "Sale" with its grammatical variations and cognate expressions means any transfer of property in taxable goods by any person for cash or deferred payments or other valuable consideration;\*

(9A)\*\*\* (9A) 'sale price' (used in relation to any dealer) means the amount of money consideration for sales of taxable goods less any sum allowed as cash discount according to ordinary trade practice but including any sum charged for containers or other materials used in packing of such goods;"

(10) "taxable goods" means such goods as are specified in subsection (l) of Section 3;

(10A)\*\*\* (10A) "Turnover" (used in relation to any period) means the aggregate of the sale prices or parts of sale prices recoverable by a dealer during such period after deducting-

- (i) the amount, if any, refunded by him in respect of any taxable goods and their containers within a period of three months from the date of delivery of the goods.
- (ii) from the resultant balance an amount arrived at by applying the following formula

$$\frac{\text{rate of tax X aggregate of sale prices}}{100 + \text{rate of tax}}$$

Provided that no deduction on the basis of the above formula shall be made if the amount by way of tax collected by a registered dealer, in accordance with

the provisions of this Act, has not been included in the aggregate of sale prices.

**Explanation:** Where the turnover of a dealer is taxable at different rates, the aforesaid formula shall be applied separately in respect of each part of the turnover liable to different rate of tax.

(11) "State Government" means State Government of Mizoram.

(12) "Year" means the financial year.

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- \* The proviso to Sub-Section (9) of Section 2 was deleted by the Mizoram Act. No 8 of 1995
  - \* Sub-Section (9A) was inserted by the Mizoram Act No 8 of 1995 w.e.f. 17.11.1995
  - \* Sub-Section (10A) was inserted by the Mizoram Act No 8 of 1995 w.e.f 17.11.1995

### 3. Liability to tax.

(1) There shall be levied and collected from every dealer, a tax on his turnover from sales of the following goods at the rates specified against each:

(i)	Motor spirit (except diesel oil and internal combustion oils other than petrol)	...	Eight paise in the rupee
(ii)	Lubricants	...	Eight paise in the rupee
(iii)	Diesel oil and other internal combustion oil (other than Petrol)	...	Five paise in the rupee
(iv)	Crude oil	...	NIL
(v)	Liquefied Petroleum Gas	...	Ten paise in the rupee

(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 Mizoram
- (ii) in the course of import into or export 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) \*\*\*

### 4. Exemption.

Notwithstanding anything contained in this Act, the State Government may, if he considers it necessary in the public interest so to do, exempt, whether without any conditions or subject to such conditions as he thinks fit to impose any dealer from

liability to pay any tax under this Act or any portion thereof, collected under this Act.

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\*\*\*\* Sub-section 3 of Section 3 was deleted by the Mizoram Act, No. 8 of 1995 w.e.f 17.11.1995

### **5. Taxing authorities.**

(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 he thinks fit.

(2) The 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 (Central Act 45 of 1860)

### **6. Compulsory Registration**

(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 or registration.

(2) Every dealer required by sub-section (1) to be registered shall apply for registration to the Commissioner in the prescribed manner and obtain 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 the application is in order, register the applicant.

### **7. Registration by Commissioner**

1) The Commissioner may, in addition to taking 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) A registration made under sub-section (1) shall have effect as if it had been made on an application made by the dealer under sub-section (2) of section 6.

### **8. Certificate of registration.**

(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 times 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 from time to time any Certificate of registration.

(3) The Commissioner shall cancel the 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.

### **9. Suspension or cancellation of certificate of registration.**

(1) The Commissioner may by order suspend, for such period as he considers 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 conditions subject to which such certificate is granted or renewed; or

(c) The holder of such certificate has been convicted under the provisions of this Act:

Provided that no order prejudicial to such holder shall be passed under this subsection without giving him a reasonable opportunity of being heard.

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

(2) The holder of a certificate of registration 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)

### **10. Returns**

(1) Every registered dealer shall furnish such returns of his turnover 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 three years of the completion of that year, a notice in the prescribed form upon him requiring him to 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 a revised return at any time before assessment is made on the original return.

(4) No return furnished under sub-section (1) or sub-section (3) (\*\*\*\*\*) shall be valid unless it is accompanied by a treasury receipt showing payment of the tax, or, as the case may be, the excess tax, due, as provided in sub-section (2) or sub-section (3) of section 22.

### **11. Assessment.**

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.

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\*\*\*\*\* Deleted by the Mizoram Act No. 8, of 19515 w.e f 17.11.'95

(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 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 furnished the return, fails to comply with all the terms of the notice issued under sub-section (2), 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 an assessment tinder this subsection, the Commissioner may allow the dealer such further time as he thinks fit, to make the return or comply with the terms of the notice issued under sub-section (2).

### **12. Cancellation of assessment.**

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 herein after provided, that he was prevented by sufficient cause from furnishing 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 or the notice, the Commissioner shall cancel the assessment and make a fresh assessment in accordance with the provisions of section 11.



### **13. Assessment and penalty in case of evasion by unregistered person.**

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 periods 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.

### **14. Assessment and penalty in case of evasion by registered person.**

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.

### **15. Rectification.**

(1) The authority which made an assessment or passed orders on appeal or revision in respect thereof, may at any time within three 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 which has the effect of enhancing the assessment shall be made unless the authority concerned has 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 issued for the sum payable

### **16. Recoveries.**

Any sum due under this Act shall be recoverable as an arrear of land revenue.

### **17. Penalties.**

(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 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 under this Act,

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

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

### **18. Assessment not to bar prosecution or penalties.**

Any assessment made under this Act shall be without prejudice to any prosecution or penalty instituted or imposed under the provisions of this Act.

### **19. Appeal.**

(1) Any dealer objection 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 said authority before whom the appeal is filed may admit it after the expiration of the said period of thirty days if such authority is satisfied, that for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within that period.

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

## **20. Revision by Commissioner.**

(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 interests of the revenue, he may, after giving the dealer an opportunity of being heard and after making or causing to be made such inquiry 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 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 a dealer for revision, call for the record of any proceeding under this Act in which such order has been passed and may make such inquiry or cause such inquiry to be made, and subject to the provisions of this Act, 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 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 that period.

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

- (a) Where an appeal against the order lies under section 19 or section 21 but has not been made and the time within which such appeal may be made has not expired, or in the case the 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 Administrator.

**Explanation:** An order by the Commissioner declining to interfere shall not, for

purpose of this section, be deemed to be an order prejudicial to the dealer.

## **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 from the date on which such order is communicated to him.

(2) The State Government may admit an appeal after the expiration of sixty days referred to in sub-section (1), if he is satisfied that for reasons beyond the control of the appellant or for any other sufficient cause it could not be filed within that period.

(3) An appeal to the Administrator 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 he thinks fit, and shall communicate any order to the dealer and to the Commissioner.

## **22. Payment of tax.**

(1) Tax payable under this Act shall be paid in the manner herein after 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 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 provisions 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 in such notice, 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 any tax or allow such dealer to pay the same by installments and in such a 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.

### **23. Interest payable by dealer.**

(1) If any registered dealer does not pay into a treasury the full amount of tax due from him under this Act on the basis of the return or his account books within the period specified, simple interest at the rate of six per cent per annum from the first day of the month next following the said date shall be payable by the dealer upon the amount by which the tax so paid falls short of the amount of tax payable as per his return or account books. If such amount of tax and interest are not paid within thirty days from the date from which the interest is due, simple interest up to a maximum of twelve per cent. per annum shall be payable as may be prescribed.

(2) Where on making an assessment, the Commissioner finds that a dealer has not maintained the account books properly and the thereby he has suppressed the sale of goods in any period the Commissioner may direct him to pay interest as specified in sub-section (1) If the amount of tax payable under this Act has been reduced in appeal or revision, the interest may be calculated on the reduced amount.

(3) If any registered dealer does not pay into the treasury the amount of tax within the date as per provided in sub-section (4) of section 22 or within the extended date under the provision thereto, interest as provided in sub-section (1) payable from the first day of the month next following the said date by the dealer upon the amount by which the amount of tax payable under this Act.

(4) If the amount of tax paid within the prescribed date is not less than ninety per centum of the tax as finally assessed no interest as provided for in sub-section (1) of this section shall be levied.

### **24. Refunds.**

(1) 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.

(2) Where a tax has been levied under this Act in respect of any declared goods which are subsequently sold in the course of Inter-State trade or commerce, the tax so levied shall be refunded to the dealer in the manner prescribed.

(3) If for reasons of delay, a refund due to a dealer is not made within ninety days of such refund being due, the dealer shall be paid simple interest at the rate of six per cent, per annum on the amount refundable.

(4) Refund under this Act shall be deemed to be due

(a) in cases where the tax assessed has been reduced on appeal or revision, from

the date the order of the appellate or revisional authority comes to the knowledge of the assessing authority; and

(b) in other cases, on the date of application or on the date specified by the applicant claiming the refund.

## **25. Offences and penalties.**

Whoever:-

- (1) carries on business as a dealer and acts in contravention of any of the provisions of this Act, or submits a return which is false in material particulars; or
- (2) fails without reasonable cause, to submit in due time, any returns as required by or under the provisions of this Act or submits a return which is false in material particulars; 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 requirements made of him under the provisions of this Act; or
- (6) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information; or
- (7) fraudulently or willfully evades the payment of any tax due under this Act, or conceals his liability to such tax; or
- (8) prevents or obstructs inspection or entry by any officer acting under the provisions of this Act; or
- (9) demands or charges from any purchaser tax, at the rate higher than that payable under the provisions of this 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.

## **26. False statement in declaration.**

Whoever makes a statement in a verification or declaration in connection with any proceeding 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

## **27. Maintenance of accounts.**

Every registered dealer or other dealer on whom a notice has been served to furnish return under the provisions of this Act, shall keep a true account of the taxable goods manufactured, made or processed by him or brought by him into the State of Mizoram from any place outside for the purpose of sale in that territory, and of the 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 this 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.

## **28. Powers to order production of accounts etc.**

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 account, registers, vouchers or other documents relating to the manufacture, making, processing, import, sale or purchase of taxable goods or matters connected therewith.

## **29. Issue of warrants.**

(1) The Commissioner may issue a warrant

(a) for the arrest of any person who he has reason to believe to have Committed an offence punishable under this Act; or

(b) for the search, whether by day by night, of any building, vessel, vehicle or place in which he has reason to believe that any taxable goods is sold or is kept for sale or consumption.

(2) All warrants issued under this section shall be executed in accordance with the provisions of the Administration of Justice Rules:

## **30. Power of entry, inspection, search, seizure, detention and arrest without warrant.**

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, vessel, 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.

### **31. Searches how made.**

All searches under section 30 shall be made in accordance with the provisions of the Administration of Justice Rules

### **32. Powers of investigation.**

(1) Every officer appointed under section 3 not below the rank of a Sub-Inspector of Police 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 such powers as are, specified in Administration of Justice Rules:

Provided that if such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a Magistrate, or that the 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.

### **33. Power to grant bail.**

Any officer empowered under section 32 shall have power to grant bail in accordance with the provisions of the Administration of Justice Rules to any person arrested without warrant for an offence punishable under this Act.

### **34. Procedure for seizure.**

When anything has been seized by an officer exercising powers under section 29 and 32, 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 as 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.

### **35. Punishment for vexatious search or arrest.**

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 vessel, 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.

### **36. Punishment for vexatious delay in forwarding an arrested person.**

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.

### **37. Things liable to confiscation**

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

### **38. Procedure in making confiscation.**

(1) When in any case tried by a Magistrate, the Magistrate decides that anything is liable to confiscation under section 37, 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 any thing not in the possession of any person but liable to

confiscation under this Act cannot be satisfactorily accounted for, the Commissioner may enquire into 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.

### **39. Powers to compound offences.**

(1) Subject to such conditions 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 there under, by way of composition of such offences

(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 recovered, a sum of money not exceeding one thousand rupees or double the amount of the tax recovered, whichever is greater; and

(b) in any other case, a sum of money not exceeding one thousand rupees in addition to the tax recovered.

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

### **40. Cognizance of offences.**

No court take cognizance of any offence under this Act, or under the rules made thereunder except with the previous sanction of the Commissioner, and no court inferior to that of a Magistrate of the first class shall try any such offence.

### **41. Protection of persons acting in good faith and limitation of suits and proceedings.**

(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 proceeding 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 proceedings is instituted within four months from the date of the act complained of.

#### **42. Restriction on movement.**

No person shall transport from any railway station, road transport station, steamer station, airport, 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 ensure that there is no evasion of the tax imposed by this Act.

#### **43. Delegation of Commissioner's Powers.**

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

#### **44. Computation of the period of limitation.**

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.

#### **45. Information to be furnished regarding change of business.**

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 ownership 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 dealer dies, his legal representative shall in like manner inform the Commissioner.

#### **46. Power to make rules.**

(1) The State Government may, subject to the condition of previous publication, make rules for carrying out the pug poses of this Act.

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

- (a) all matters expressly required or allowed by this Act to be prescribed;
- (b) the regulation of the recovery of the tax leviabale under section 3;

(c) the circumstances and the manner in which and the conditions under which refunds may be made or withdrawn.

(d) the imposing on dealers, importers and manufacturers the duty of furnishing returns, and keeping 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 petitions, certificates and other matters.

(3) In making any rule, the State 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 a further fine which may extend to one hundred rupees for every day after the first during which the breach has been persisted in.

**47.** Until any law relating to the interpretation of statutes is made by the Legislative Assembly of Mizoram, title Assam General Clauses Act, 1915, shall apply to the interpretation of this Act as it applies to the interpretation of an Assam Act.

(Application of Assam Act 2 of 1915).

**48. Repeal and saving.**

(1) The Assam (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricants) Taxation Act, 1956, as in force in the Union Territory is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken, including any notification, order, appointment or seizure made, direction given, notice or certificate of registration issued, exemption granted, penalty or fine imposed under the Act so repealed shall, in so far as it is not inconsistent with the provisions of this Act, be deemed to have been done, taken, made, given, issued, granted or imposed, as the case may be under the corresponding provision of this Act.

(Assam Act IX of 1956).