

## **THE ASSAM ELECTRICITY DUTY RULES, 1964**

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### **Short title**

1. These rules may be called the Assam Electricity Duty Rules, 1964.

### **Definitions**

2. In these rules unless the context otherwise requires :-

- (1) "Act" means the Assam Electricity Duty Act, 1964.
- (2) "Agent" means a person who is -
  - (a) a relative of the assessee, or
  - (b) regularly employed by the assessee, or
  - (c) a Barrister-at-law, a Solicitor, an Advocate, a Pleader or any other person entitled to plead in any court of law in the Indian Union, or
  - (d) a member of the Institute of Chartered Accountants of India or one who has passed any accountancy examination recognised in this behalf by the State Government, and is authorised in writing, by the assessee to appear or act on his behalf before an Inspecting Officer.
- (3) "assessee" means the board, a licensee or a person generating energy for his own use or consumption;
- (4) "The Assam Board of Revenue", also called appellate authority for the purposes of rule 12, means the Assam Board of Revenue constituted under the Assam Board of Revenue Act, 1959, or under any statutory modification or re-enactment thereof;
- (5) "duty" means the electricity duty payable under section 3 of the Act;
- (6) Inspecting Officer mean and include :—
  - (i) the Commissioner of Taxes for any and all powers given under the Act and these Rules,
  - (ii) the Joint Commissioner of Taxes for the purpose of rules 7,8 and 9,
  - (iii) the Deputy commissioner of Taxes for the purpose of Rules 7,8 and 9,
  - (iv) the Assistant Commissioner of Taxes (Appeals) for the purpose of rule 11,
  - (v) the Assistant Commissioner of Taxes, Zones for the purpose of rules 7,8 and 9,
  - (vi) the Superintendent of Taxes, the assessing authority

for the purpose of section 8(1) of the Act and the rules 3, 5, 6, 7, 8, 9, 13 and 14,

- (vii) the All Assam Investigation Officers for the purpose of rules 7, 8 and 9,
  - (viii) the Inspector of Taxes all appointed as such by the State Government for the purpose of rules 7, 8 and 9.
- (7) all other words and expressions used in these rules shall have the same meanings as have been respectively assigned to them under the Act.

### **Jurisdiction of Inspecting Officers**

**2A.** The Commissioner shall perform his function in respect of the State of Assam and other inspecting officer as defined in Rules 2(6) shall preform their functions in respect of such areas or of such persons as the Commissioner of Taxes may, by notifications in the Official Gazette, specify.

### **Time and manner of collection and payment**

**3. (1)** An assessee shall include the duty leviable under the Act as a separate item in the monthly bill of charges for the energy supplied by him, and shall recover the same along with his own charge for the supply of energy.

- (2) The duty shall be paid direct into a Government Treasury by Challan within 15 days of the close of the month to which the duty pertains. Challans in Form AED-1 will be obtainable at the office of the assessing authority or a Government Treasury/Sub-Treasury.
- (3) Two copies of the Challan duly signed as proof of payment shall be returned to the assessee and two copies shall be retained in the treasury or sub-treasury, one of which shall be transmitted to the assessing authority on the day following the date of payment.
- (4) Every treasury/sub-treasury officer shall send an advice list to the assessing authority on the 5th day of every month showing the amount received in the previous month. The advice list shall contain the challan number and date, the name of the assessee and the amount paid.
- (5) The assessing authority shall record the receipt of challans in a daily collection register indicating the number, date and amount of each challan. The daily collection register shall be maintained in Form AED-2.
- (6) The amount of penalty imposed under the Act shall be paid within the date specified in the Notice of Demand direct into a Government Treasury by Challan in Form AFD-1.

The provisions of sub-rules (3), (4) and (5) shall apply to payment made under this sub-rule as well.

#### **Keeping of books of account**

4. (1) Every assessee shall keep books of account containing the following particulars separately, for each consumer namely—

- (i) service connection number,
- (ii) address and brief description of the premises to which the energy is supplied.
- (iii) number of units of energy consumed,
- (iv) rate of supply,
- (v) details and amount of electricity duty charged,
- (vi) date of payment of electricity duty,
- (vii) details of duty adjusted or written-off in accordance with rule 13, and
- (viii) date of disconnection.

(2) Where the tariff does not involve metered supply of energy the assessee shall compute the supply for the purpose of calculation of duty on the following basis :

|   |           |
|---|-----------|
| If the amount of monthly bill of the consumer       | = Rs. x   |
| and the net overall rate for the category of supply | = y paise |
| if it were metered                                  |           |
| Then the number of units on which the duty          | = $100x$  |
| shall be payable                                    | y         |

#### **Submission of returns**

5. An assessee shall submit to the assessing authority returns in Form AFD 2/3 within a month of the expiry of each half of the year on 30th September and 31st March.

#### **Issue of demand notice**

6. After a month of the close of the half year on 30th September or 31st March, the assessing authority may, on the returns furnished in accordance with rule 5 or information in his possession, issue a notice of demand on the assessee, and, the duty demanded under notice shall be payable within a month of such notice. A notice of demand may be in Form AED-4.

An assessing authority shall maintain an assessment register in Form AED-5.

(2) The assessing authority shall issue a notice of demand in Form AED-4 in respect of the amount of penalty, if any, imposed by sub-section (1) of section 8 of the Act specifying therein the date within which such penalty shall be payable.

### **Inspection of books of account**

7. An Inspecting Officer may at any time require an assessee to produce for inspection such books and records in his possession or control as may be necessary for ascertaining or verifying the amount of duty leviable under the Act.

### **Power of entry of Inspecting Officer**

8. An Inspecting Officer may enter any premises where energy is, or is believed to be, supplied, used or, consumed, by an assessee for the purpose of -

- (i) verifying the statements made in the books of account kept and returns submitted by the assessee;
- (ii) checking the reading of the meters; and
- (iii) verifying the particulars required in connection with levy on the duty.

### **Other duties of the Inspecting Officers**

9. An Inspecting Officer shall, as may be necessary, inspect the books of account kept and returns submitted by an assessee under rule 4 and 5 respectively and apply a detailed test of individual entries for verifying the particulars noted by the assessee, so far as they are connected with the levy of the duty. He shall also verify all entries relating to -

- (i) exemption from duty, and
- (ii) adjustments allowed by the assessee.

### **Provision for meters**

10. (1) When there is combined installation for using energy and part of the supply of energy is dutiable and part is exempt, the assessee may cause the consumer to install and maintain additional, suitable and correct meter to register the quantities of the two kinds of consumption separately.

- (2) An assessee who generates energy for his own use or consumption shall install and maintain suitable and correct meter to register the quantity of energy so used or consumed by him.

### **Rate of electricity duty where no meter is maintained**

10A. The rate of electricity duty in respect of all premises where no meter is maintained shall be as follows -

|   | <i>Paise per mensum</i> |
|---|-------------------------|
| 1. Every lamp of less than 30 watts                           | 8                       |
| 2. Every lamp of 30 watts or more but less than 40 watts      | 13                      |
| 3. Every lamp of 40 watts or more but less than 60 watts      | 17                      |
| 4. Every lamp of 60 watts or more but not exceeding 100 watts | 25                      |

|     |   |    |
|-----|---|----|
| 5.  | For every additional 15 watts or fraction thereof in excess of 100 watts in any lamp  | 4  |
| 6.  | For every plug point  | 20 |
| 7.  | For every meter whose rated capacity is below 1/8 horse power   | 15 |
| 8.  | For every meter whose rated capacity is 1/8 horse power or more but below 1/4 horse power   | 25 |
| 9.  | For every meter whose rated capacity 1/4 horse power or more but below 1/2 horse power  | 37 |
| 10. | For every meter whose rated capacity is 1/2 horse power or more but below 1 horse power   | 50 |
| 11. | For every meter whose rated capacity is 1 horse power   | 75 |
| 12. | For every additional 1/2 horse power or part thereof over 1 horse power in respect of meters whose rated capacity exceeds 1 horse power | 25 |

### **Appeal and hearing**

**11.** (1) An appeal under section 8 of the Act shall be to the Assistant Commissioner of Taxes (Appeals) and where there is more than one such officer to such Assistant Commissioner of Taxes (Appeals) as may be specified by the Commissioner of Taxes by notification in the Official Gazette and shall be presented in Form AED-6 and shall comply with the following requirements-

- (a) It shall be accompanied by the notice of demand and the fee prescribed in rule 16;
- (b) It shall be signed, verified and endorsed by the appellant or his agent to the following effect -
  - (i) that the duty is dispute has been paid; and
  - (ii) that to the best of his knowledge and belief the statements made in the memorandum are true :

Provided however that in any case or class of cases the Commissioner may by order in writing direct that the appeal under this rule shall lie to such Assistant Commissioner of Taxes other than Assistant Commissioner of Taxes (Appeals) as may be specified in such order.

- (2) When an appellant does not comply with any of the requirements of sub-rule (1) in presenting the appeal, it may be summarily rejected.
- (3) The appellate authority shall hear an appeal at such time and place as may be fixed after giving notice to the appellant

### **Appeal to the Board of Revenue**

**12.** An appeal against the order of the appellate authority may be made to the Assam Board of

Revenue in such manner as laid down by the Assam Board of Revenue.

### **Refund**

**13.** (1) If duty has been received in excess of what is payable under the Act, the assessing authority shall, on application by the assessee, either refund the excess so paid by the assessee or adjust it in subsequent payment or payments.

- (2) An application for refund shall be made to the assessing authority and shall include, amongst others, the following particulars:
  - (a) the name and address of the assessee;
  - (b) the period of assessment for which refund is claimed
  - (c) the amount of dues already paid together with challan number and the date payment; and
  - (d) the amount of refund claimed and the grounds thereof.
- (3) An application for refund shall be signed and verified as in the case of an appeal under rule 12.
- (4) No claim to any refund shall be allowed unless it is made within one year from the date of issue of the notice of demand or within one year of the final order passed on appeal in respect of such assessment.
- (5) When the assessing authority is satisfied that the refund claimed is due, wholly or in part, he shall record an order sanctioning the refund.
- (6) When the order for refund has been passed, the assessing authority may issue a refund voucher in Form AED-7, in favour of the assessee or may set off the amount to be refunded or any part thereof against duty remaining payable by the assessee or against subsequent payment or payments as the case may be. If a refund voucher is issued, an advice list shall, at the same time be forwarded to the Treasury Officer concerned.
- (7) A register shall be maintained in Form AED-8 wherein particulars of all applications for refund and the orders passed thereon shall be entered.

### **Register of prosecutions**

**14.** A register in Form-9 shall be maintained by the assessing authority showing prosecutions instituted.

### **Delivery of notice**

**15.** A notice under these rules, unless communicated verbally shall be in writing and may be served by any of the following methods :

- (a) by hand, or
- (b) by registered post :

Provided that if upon an attempt having been made to serve a notice or requisition by any of the above mentioned methods the prescribed authority is satisfied that the assessee is evading the service of notice or requisition, the prescribed authority shall cause such notice or requisition to be served by affixing a copy thereof on some conspicuous part the last notified place or premises of the assessee and such service shall be as effectual as if it had been made on the assess by hand.

### **Fees**

**16. (1)** The following fees shall be payable -

- (a) Upon a memorandum of appeal under rule 11 - Rupees three;
- (b) upon an application for a certified copy -
  - (i) application fee - 25 paise;
  - (ii) authentication fee for every 360 words or thereof - 50 paise;
  - (iii) one impressed folio for not more than 150 (English) words and an extra folio for every 150 words or part thereof;
  - (iv) urgent fee Re. 1, if the applicant requires copy to be furnished urgently. In an urgent case, fees folios must also accompany the application;
  - (v) an additional fee, subject to a minimum of Re. 1 to cover the cost of postage, if the applicant wants his copy to be sent by post;
  - (vi) a searching fee of Re. 1, if the applicant wants a copy of an order or document which is more than one year old;
- (c) upon any other miscellaneous petition - 50 paise.

(2) All fees shall be paid in court fee stamps.

(3) No fee shall be payable in respect of any objection, written or verbal, made in reply to a notice or in respect of any spontaneous application which asks only for information and does not seek any specific relief.

### **Copies of order**

**17. (1)** The first copy of the order of the appellate authority shall be supplied to the appellant free of charge.

(2) An application for a certified copy of order or other documents shall be filed in the office of the appropriate authority and shall contain the following particulars :-

- (a) name and address of the assessee;
- (b) relevant year;

- (c) particulars of the document or order.

### **Rectification of mistake**

18. (1) The authority which issued the notice of demand or passed an order on appeal in respect thereof may, at any time within three years 3m the date of issue of such notice or passing the order and of its own motion, rectify any mistake apparent from the record of the case, and shall, within like period, rectify and such mistake as has been brought to its notice by an assessee:

Provided that no such rectification shall be made having the effect of enhancing the amount of duty payable unless the authority concerned given a notice to assessee of its intention so to do or has allowed him a reasonable opportunity of being heard.

- (2) Where any such rectification has the effect of reducing the amount of duty, a refund shall be due to the assessee.
- (3) Where any such rectification has the effect of enhancing the amount of duty, a notice of demand shall be issued for the sum payable.

### **Rounding**

19. In determining the half yearly amount of duty payable by an assessee or amount of refund due under the Act, fraction of a rupee below 50 paise shall be ignored and a fraction of a rupee equal to or exceeding 50 paise shall be taken as a whole rupee.