

CHAPTER III

7. RETURNS.- (1) Every employer registered under this Act shall furnish to the assessing authority a return in such form, for such periods and by such dates as may be prescribed, showing therein the salaries and wages paid by him and the amount of tax deducted by him in respect thereof. (See: Rule 12/Form III)

(2) Every return shall be accompanied by a treasury challan in proof of payment of full amount of tax due according to the return, and a return without such proof of payment shall not be deemed to have been duly filed.

(3) Where an employer, without reasonable clause, fails to file such return within the prescribed time, the assessing authority may, after giving him a reasonable opportunity of being heard, impose upon him a penalty not exceeding rupees five for each day of delay.

Amendments.- Section 7 has been substituted w.e.f 1-4-92 by Assam Act No. XI of 1992, published in the Assam Gazette of 6th June, 1992.

8. Assessment of employers.- (1) if the assessing authority is satisfied that the return filed by any employer is correct and complete, it shall accept the return.

(2) (a) If the assessing authority is not satisfied that the return filed is correct and complete, it shall serve upon the employer a notice requiring him, on a date and at the hour and place specified in the notice, to attend in person or through an authorised representative and to produce or cause to be produced accounts and papers in support for the return.

(b) The assessing authority shall, on examination of the accounts and papers, by an order in writing, assess the

amount of tax payable by the employer. (See: Rule 13/Form VIIA)

- (c) If the employer fails to comply with the terms of the notice, or if in the opinion of the assessing authority the accounts and papers are incorrect or incomplete or unreliable such authority shall, after such inquiry as it may deem fit or otherwise, by an order in writing assess the tax to the best of its judgement.
- (3) The amount of tax due from any employer shall be assessed separately for each year during which he is liable to pay tax :

Provided that the assessing authority may, subject to such conditions as may be prescribed and for reasons to be recorded in writing, assess the tax due from any employer during any part of a year:

Provided further that where a registered employer fails to furnish a return for any part of a year, the assessing authority may, if it thinks fit, assess the tax due from such employer separately for different parts of such year.

- (4) If an employer fails to get him self registered or being registered fails to filer any return, the assessing authority, shall, after giving the employer a reasonable opportunity of being heard and after holding such inquiry as it may deem fit or otherwise, pass an order assessing the amount of tax due to the best of its judgement.
- (5) The amount of tax, so assessed, shall be paid within fifteen days of receipt of the notice of demand from the assessing authority.

Amendments: Section 8 has been substituted w.e.f 1-4-92 by Assam Act No. XI of 1992, published in the Assam Gazette of 6th June, 1992.

8A. Assessment of Escaped Tax.- If for any reason any person has not been assessed or has been under-assessed for any financial year the assessing authority may, notwithstanding anything contained in sub-section (2) of section 7, at any time within *five years* of the end of that year, serve on the person liable to pay the tax, a notice containing all or any of the requirements, which may be included in the notice under sub-section (2) of section 7 and may proceed to assess or reassess him under the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section:

Provided that the tax shall be charged at the rate at which it would have been charged if the person would not have escaped assessment or full assessment, as the case may be.

Amendment: *In the principal Act, in section 8A, for the words, "three years" the words "five years" has been substituted vide notification no. LGL.55/2005/30 Dated 7th February, 2009 published in the Assam Gazette Extraordinary no.41 Dated 7th February, 2009.*

8B. Rectification of mistakes.- (1) The authority which made an assessment or passed an order on appeal or revision in respect thereof, may of his own motion, and shall if an application is filed in this behalf, within three years from the date of such assessment or order rectify any mistake apparent from the record of the case:

Provided that no such rectification having adverse effect upon an assessee shall be made unless the assessee has been given a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the assessing authority shall order any refund which may be due to such person.

(3) Where any such rectification has the effect of enhancing the assessment or reducing the refund, the assessing authority shall serve on the person a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 11 and the provisions of this Act shall apply accordingly.

9. Deleted with effect from 1.4.1992 by Assam Act No. XI of 1992.

9A. Deleted with effect from 1.4.1992 by Assam Act No. XI of 1992.

9B. Deleted with effect from 1.4.1992 by Assam Act No. XI of 1992.