

THE ASSAM LOCAL FUNDS (ACCOUNTS AND AUDIT) ACT, 1930

[Assam Act II of 1930]

[Published in the Assam Gazette, of the 2nd July, 1991.]

PREAMBLE

An Act to make better provision for the audit and safeguarding of local funds in Assam.

WHEREAS it is expedient to make better provision for the audit and safeguarding of local funds in Assam;

And WHEREAS the previous sanction of the Governor General under sub-section (3) of Section 80A of the Government of India Act has been obtained to the passing of this Act.

It is hereby enacted as follows.--

Section 1 - Short title and extent

(1) This Act may be called the Assam Local Funds (Accounts and Audit) Act, 1930.

(2) It extends to the Whole of Assam.

Section 2 - Definition

In this Act, unless there be anything repugnant in the subject or context.--

(1) "Auditor" means an auditor appointed under this Act;

(2) "Examiner of Local Accounts" means a person appointed as such under this Act and includes any person for the time being performing the duties of an Examiner of Local Accounts;

(3) "Local Accounts" or "accounts of a local authority" means the accounts of the local fund and of all other property vesting in or under the control or management of any local authority other than a cantonment authority;

(4) "Local fund" means any fund vested in or under the control or management of a municipal board, town committee, local board, village authority or other local authority not being a cantonment authority and includes any fund [not being a cantonment fund](Inserted by the Adoption of Indian Laws Order, 1937) declared by the [State Government] (Substituted by the Adoption of Laws Order, 1950 for "provincial Government" which was substituted by the A.O. 1937 for "Local Government") to be a local fund for the purposes of this Act; and

(5) "Person Accounting" or "Accounting Officer" with reference to any local fund means any person charged with the preparation or maintenance of any accounts (including estimates, measurement books, bills, etc.,) connected with the fund that may be prescribed under this or any other Act;

(6) "Prescribed" means prescribed by Rules made under this Act.

Section 3 - Repeal of repugnant provisions in other enactments

Where any enactment by which a local authority is constituted contains any provision repugnant to the provisions of this Act or of any rule made here-under, that provision shall, to the extent of the repugnancy, be deemed to have been repealed by this Act.

Section 4 - Appointment of Examiner of Local Accounts

(1) The ["State Government"] (Substituted by the Adaptation of Laws Order, 1950 for "Provincial Government" which was substituted by the A.O. 1937 for "Local Government") may, by notification, appoint any person to be an Examiner of Local Accounts in Assam.

"[(2). Appointment of auditors.--The Examiner of Local Accounts may appoint auditors of local accounts"] (Inserted "sub-section (3)" by the Assam Act No. XVI of 1963. S. 2 (with effect from 13-5-1963) [Published in the Assam Gazette Extraordinary, dated the 13th May, 1963].)

"[(3). Appointment of other persons to exercise the powers of Examiner of Local Accounts or the Auditor.--The State Government may, by notification or orders, appoint such other person or persons with such designation or designations, as are deemed necessary from time to time, and invest them with all or any of the powers of the examiner of Local Accounts or Auditors, as the case may be, and specify the area or areas within which every such person shall exercise his powers"] (Amended "sub-section (3) of S. 4" by the Assam Act No. X of 1969, S. 2 (with effect from 14-5-1969) [Published in the Assam Gazette Extraordinary, dated 14th May, 1969).

"[4A. Validation of appointment and action taken by certain auditors.--

(1) No appointment of any person to be an auditor made at any time between the period from the 30th May, 1963 to the date of coming into force of the Assam Local Funds (Account and Audit) (Amendment) Act, 1969 otherwise than in accordance with the provision of sub-section (2) of Section 4 of this Act by the Examiner of Local Accounts shall be deemed to be illegal or void or ever to have become illegal or void by reason only of the fact that such appointment was not made in accordance with said provision.

(2) No action taken by any person at any time between the period from the 30th May, 1963 to the date of coming into force of the Assam Local Funds (Accounts and Audit) (Amendment) Act, 1969 appointed as an auditor otherwise than in, accordance with the provision of sub-section (2) of Section 4 of this Act by the Examiner of Local Accounts shall be deemed to be illegal or invalid by the reason only of the fact that such appointment was not made in accordance with the said provision." (Inserted new "Section 4A" by the Assam Act No. X of 1969, S. 3, (with effect from 14-5-1969) [Published in the Assam Gazette Extraordinary, dated the 14th May, 1969)

Section 5 - Power of Examiner of Local Accounts and auditors to examine local accounts

(1) An Examiner of Local Accounts or any auditor may, in accordance with the rules made in this behalf under this Act, examine and audit the accounts of any local authority.

(2) For the purpose of any examination of audit under this Act, an Examiner of Local Accounts, and for the purpose of any

appeal under this Act, a Commissioner of a Division shall have the power of a Civil Court under the Code of Civil Procedure, 1908 (Act V 1908).

(a) to summon any person whose presence he thinks necessary to attend before him from time to time; and

(b) to examine any person on oath to be by him administered; and

(c) to issue a commission for the examination on interrogatories or otherwise of any person; and

(d) to summon any person to produce any necessary document or thing.

(3) For the purpose of any audit under this Act, an auditor may.--

(a) by summons in writing or by letter require the production before him of any document which he may deem necessary;

(b) by summons in writing require any whole time paid servant of the local authority accountable for, or having the custody or control of, any such document to appear in person before him; and

(c) require any such person to make and sign a declaration with respect to such document or to answer any question or prepare and submit any statement relating thereto.

(4) Every person to whom a summons or requisition is issued under sub-section (2) or (3) shall be bound to comply therewith.

Section 6 - Auditors and Examiners of Local Accounts public servants within the meaning of the Indian Penal Code

Every auditor (,)(Substituted in Section 6, for the word "and" by a "coma" by the Assam Act No. XVI of 1963 (with effect from 13-5-1963) [Published in the Assam Gazette Extraordinary, dated the 13th May, 1963]) Examiner of Local Accounts ["and every person or persons"] (Inserted "in" Section 6, the words "and every person or persons", by *ibid.* S. 3) appointed under this Act shall, for the purposes of the powers and duties conferred and imposed upon him by or under this Act, be deemed to be a public servant within the meaning of Section 21 of the Indian Penal Code.

Section 7 - Presence of interested persons at the time of audit

Any person who is assessed to any tax, rate, or fee the proceeds of which are required to be credited to the local fund may be present at any audit of the Local Accounts under this Act provided that.

(a) he has obtained the previous permission of the auditor or of the Examiner of Local Accounts on a written application stating the grounds on which he desires to be present; and

(b) he shall be permitted to be present only during that part of the audit with which the grounds disclosed in his application are concerned.

In every such case, the authority granting permission shall forthwith forward a copy of the application and of the order passed thereon to the chairman or other principal executive officer of the local authority concerned.

Section 8 - Audit report

When an auditor has completed the audit of the accounts of any local authority he shall prepare a report on them and shall furnish one copy of the report to the local authority and another copy to the Examiner of Local Accounts.

Section 9 - Power of Examiner of Local Accounts to surcharge or charge illegal payment or loss incurred by negligence

(1) The auditor shall include in his report (hereinafter called the audit report) a statement of.--

(a) every payment which appears to him to be contrary to law;

(b) the account of, or the equivalent in money of, any deficiency or loss which appears to have been incurred by the negligence or misconduct of any person accounting;

(c) the amount of any sum or the equivalent in money of any article which ought to have been, but is not, brought into account by any such person; and

(d) the name of the person making or authorising the illegal payment or accountable for the deficiency, loss, or omission, as the case may be.

(2) After considering such report the Examiner of Local Accounts may--

(a) order that any payment referred to in clause (a) of sub-section (1) shall be allowed or that no further action shall be taken as regards any amount referred to in clause (b) or (c) of the said sub-section; or

(b) serve a notice on the person named in the report or any other person whom the Examiner of Local Accounts considers to have made or authorised the illegal payment or to be accountable for the deficiency, loss or omission, requiring him to show cause within one month why the payment or amount referred to in the report or any similar payment or amount omitted therefrom should not be surcharged on or charged against him.

(3) After considering the cause (if any) shown by the person notified, the Examiner of Local Accounts may surcharge any such payment on, or charge any such amount against, him and shall in every such case certify the amount due from such person.

(4) Publication of the Certificate and the audit report.--The certificate shall be according to the forms set forth in the schedule hereto annexed or to the like effect and a copy thereof together with a copy of the audit report shall be published in the prescribed manner.

Section 10 - Application of Sections 8 and 9 to audit conducted by the examiner of Local Accounts

All the provisions of Sections 8 and 9 shall apply mutatis mutandis when the Examiner of Local Accounts himself conducts any audit under this Act.

Section 11 - Credit of certified sums to local fund

Except as hereinafter provided, every sum certified under Section 9 as due from any person shall be forthwith paid by him to the local authority concerned to and shall thereupon be credited to its local fund.

Section 12 - Appeal against surcharge or charge made under Section 9

(1) (a) Any person aggrieved by any surcharge or charge made under section 9 whether by reason of its being excessive or insufficient, or on any other ground whatsoever, and

(b) any person aggrieved by the omission to make a surcharge or charge under Section 9, may within thirty days of the date of publication of the certificate thereof in case (a) and of the audit report in case (b) appeal to the Commissioner of the Division concerned who may thereupon take further evidence or direct further evidence to be taken and pass such orders, including an order as to costs, as he may think fit, and these orders, subject to the provisions of sub-section (2), shall be final.

(2) In any case in which the amount of the surcharge or charge ordered by the Commissioner in appeal exceeds three hundred rupees or in which a question of law is involved, any person aggrieved, may within thirty days of the Commissioner's order, appeal to the [State Government] (Substituted by A.O. 1950 for "Provincial Government"), which may thereupon pass such orders, including an order as to costs, as it may think fit and these orders shall be final.

Section 13 - Surcharge or charge to be recoverable as an arrear of the land revenue

(1) The sum stated in the certificate of the Examiner of Local Accounts, in all cases in which no appeal has been preferred under Section 12, and the sum stated in the order of the appellate authority, in all cases in which an appeal has been preferred, may, on his application or on the application of the local authority concerned, within three years of the date of the certificate or order, as the case may be, be recovered by the Deputy Commissioner as if it were an arrear of land revenue.

(2) All expenses connected with any application under sub-section (1) shall be a charge on the local fund and all sums recovered thereunder shall be credited to the same fund.

Section 14 - Charge in respect of audit to be payable out of local fund. All expenses incurred by a local authority in complying with any requisition under Section 5 shall be payable out of its local fund

All expenses incurred by a local authority in complying with any requisition under Section 5 shall be payable out of its local fund.

Section 15 - Power to make Rules

(1) The [State Government] (Substituted by A.O. 1950 for "Provincial Government") may, after previous publication, make rules for the purpose of carrying out the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing powers, such rules may regulate-

(i) the manner in which a local authority shall keep accounts in cases in which no such provision or, in the opinion of the [State Government]² insufficient provision is made by the enactment under which such authority is constituted;

[(ii) the powers and duties of an Examiner of Local Accounts, Auditors, and of other person or persons appointed under sub-section (3) of Section 4 and the procedure to be followed by them in conducting an audit under this Act and the times and places at which the audit may be conducted; and] (Substituted by the Assam Act No. XVI of 1963 (with effect from 13-5-1963)

(iii) the manner in which certificates under Section 9 are to be served on the persons concerned.

[Published in the Assam Gazette Extraordinary, dated the 13th May, 1963].

Schedule - SCHEDULE

SCHEDULE

(Vide Section 9)

FORMS OF CERTIFICATES

FORM I

1. Against an accounting officer

I do hereby certify that in the account of.....

(here enter name and office of the person).....

.....of.....

(here enter name of the local authority).....,

I have disallowed (or surcharged) the sum of Rs.....which is accordingly now due from him.

As witness my hand, this.....day of..... 200

Examiner of Local Accounts.....

FORM II

2. Against a person not an accounting officer

I do hereby certify that in the accounts of.....

(here enter the name of the local Authority)

the.....I have disallowed the sum of Rs.....as a payment illegally made out of the funds of the local authority and I find that.....of.....authorised

(here enter name and description of person)

the making of such illegal payment, and I do hereby surcharge the said.....with the same,
which is accordingly now due from him.

As witness my hand this.....day of.....19 Examiner of Local
Accounts.....