

The 8th May, 2002

No. LL(B) 5/2002/24- The Meghalaya (Mobile Phone Connection) Cess, Act, 2002 (Act No.5 of 2002) is hereby published for general information.

MEGHALAYA ACT NO. 5 OF 2002

(As passed by the Meghalaya Legislative Assembly)

Received the assent of the Governor on 7th May, 2002

THE MEGHALAYA (MOBILE PHONE CONNECTION) CESS ACT, 2002.

An

Act

To provide for levy of Cess on Mobile Phone Connection

Be it enacted by the Legislature of the State of Meghalaya in the Fifty-third Year of the Republic of India as follows:-

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| Short title, extend and commencement | 1 | <p>(1) This Act may be called the Meghalaya (Mobile P hone Connection) Cess Act, 2002</p> <p>(2) It extends to the whole of the State of Meghalaya.</p> <p>(3) It shall be deemed to have come into force on and from 18th January, 2002</p> |
| Definition | 2 | <p>In this Act, unless the context otherwise requires:-</p> <p>(a) "Act" means the Meghalaya (Mobile P hone C onnection) Cess Act, 2002;</p> <p>(b) "Authorised Officer" means the officer competent to collect the Cess and exercise the power and functions as referred to in section 5 of this Act;</p> <p>(c) "Business" includes the activity of providing mobile phone connection and any other service in connection, incidental or ancillary to activity for monetary consideration;</p> <p>(d) "Cess" means one time payment of tax for mobile phone connection provided to customer;</p> <p>(e) "Magistrate" means Magistrate of the First class as defined under the Code of Criminal Procedure, 1973</p> <p>(f) "Operator" include firm/company issuing m obile pho ne connection including a firm or company of society or association who owns the operation and also a person who for the time being is in charge of the management of the operation and registered under Section 6 of this Act;</p> <p>(g) "place o f b usiness" i nclude an o ffice, o r an y other p lace which a company uses for the purpose of his business or where he keeps his books of accounts;</p> <p>(h) "prescribed" means rules made under this Act;</p> <p>(i) "State Government" means the Government of the State of Meghalaya.</p> |
| Levy and collection Cess | 3 | <p>Subject to the provisions of this Act there shall be levied and of collected a one time Cess at the rate of rupees five hundred per mobile phone connection including existing connection at the commencement of this Act.</p> |

Liability of operator	4	(1)The cess leviable under this Act shall be paid to to pay the tax Government by a operator. (2)If a person other than the operator is for the time being in-charge of the operation then such person shall jointly and severally be liable to pay the Cess.
Exercise of powers authorities	5	The authorities competent to recover and enforce payment of and Cess hear appeals and exercise powers and functions incidental thereto under the Meghalaya Sales tax (Assam Act X VII of 1947 as adapted by Meghalaya) and rules framed there under shall, within the local limits of their jurisdiction be the authorities competent to exercise the corresponding powers and functions under this Act and the rules so prescribed.
Registration	6	(1)No operator who is liable to pay Cess under section 3 shall run the business unless he possess a valid certificate of registration as provided under this Act; Provided that such operator who, at the commencement of this Act, is running the business may continue to do so but shall apply to the Authorised Officer for registration within thirty days there from. (2)Every operator who is required to possess a certificate of registration shall apply in the prescribed form to the Authorised Officer within thirty days from the date on which he first become liable to pay the Cess. (3)If the Authorised Officer after such enquiry as he deems fit is satisfied that an application for registration is in order he shall register the applicant and issue him a certificate of registration in the prescribed form. (4)The Authorised Officer may, after considering the information furnished or received under any provisions of this Act, amend, from time to time the certificate of registration. (5)Where a registered operator discontinue, transfers or otherwise disposes of the business applies in the prescribed form to the assessing officer for cancellation of the registration, the latter shall, after such enquiry as may necessary, cancel the certificate of registration with effect from such date as he may fix in accordance with the rules. (6)Where the Authorised Officer is satisfied that any registered operator has discontinued, transferred or otherwise disposed of the business and has failed to apply under sub-section (5) for cancellation of the registration the Authorised Officer may, after giving the operator a reasonable opportunity of being heard, cancel the certificate of registration with effect from such date as he may fix and the said activity shall be discontinued transferred or otherwise disposed of from that date: Provided that the cancellation of a certificate of registration shall not affect the liability of the operator to pay the Cess, including any penalty, due for any period up to the date of

		cancellation whether such Cess including any penalty is recovered before or after the date of cancellation.
Registration not transferrable.	7	Save as otherwise provided in section 9, certificate of registration shall be personal to the operator to whom it is granted and shall not be transferable.
Information to be furnished regarding changes in business	8	(1) If an operator liable to pay Cess under the Act- (a) Sells or otherwise disposes of his business or any parts thereof or makes any other changes in the ownership of etc. the business or, (b) Discontinues his business or changes the name, nature or place thereof or opens a new place of business, or (c) Enters into a partnership of association in regard to his business, he shall within the prescribed time inform the Authorised Officer of the change. (2) Where an operator dies, the executor, administration or other legal representative or where any such operator is a firm and there is a change in the constitution of the firm or the firm is dissolved every person who was a partner thereof shall, in like manner inform the Authorised Officer, of such death or, as the case may be, change or dissolution of the firm.
Certificate of registration to continue in certain circumstances	9	Where a registered operator- (a) Effect any change in the name of his business; or (b) Is a firm, and there is a change in the constitution of the firm without dissolving it; or (c) Is a trustee of a trust, and there is change in the trustees thereof; It shall not be necessary for the operator or the firm with the changed constitution or the new trustees to apply for a fresh certificate of registration and of information being furnished in the manner required by section 8, the certificate of registration shall be amended accordingly
Furnish of returns	10	(1) Every registered operator shall furnish returns showing total mobile phone connection for such periods on such dates and to such authority as may be prescribed (2) If operator discovers any omission or incorrect statement to the returns furnished under sub-section (1) shall furnish revised returns before the expiry of three months next following the last prescribed for furnishing the original returns.
Prohibition against collection of tax in certain cases and imposition or penalty	11	(1) No, operator- (a) Who is not required to pay the Cess, shall collect it from any person; and (b) Who is required to pay the Cess, shall collect from any person any amount on that account in excess of that due under this Act. (2) Whoever contravenes the Provision of sub-section; (1) shall be punishable with fine of rupees two thousand or twice the

amount collected or, the case may be, collected in excess of the Cess due whichever is higher and the amount so collected shall be forfeited to the State Government and the person from whom the operator had recovered it may claim from the Government within one year from the date he became aware of its forfeiture.

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| Bill or cash memorandum to be to a customer. | 12 A registered operator shall issue to a customer a bill or cash memorandum serially numbered signed by him or his issued employee, manager or agent showing therein such particulars as may be prescribed and shall retain the counterfoil or duplicate copy of such bill or cash memorandum and preserve it for a period of not less than eight years. |
| Account | <p>13 (1) Every operator liable to pay Cess under this Act and every operator who is required so to do by the Authorised Officer shall keep as an account of the connection by him in such form as may be prescribed.</p> <p>(2) The Commissioner of Taxes by notice in writing or by notification in the Official Gazette, direct any operator or any class of operator to maintain accounts and records showing such particulars regarding their business in such manner as may be specified by him.</p> <p>(3) A registered operator shall keep all books of accounts, registers and documents relating to his business at the place of business specified in the certificate of registration with his previous approval, at such other place, as Authorised Officer may allow.</p> |
| Declaration in respect of an operation which is firm, company | 14 Where the operator is a firm, company, society, association or trust the person who is in charge of and his responsible to the firm, company, society, association or trust as the case may be shall furnish a declaration stating the names of the persons who are etc. members of the Board of Directors or Governing Body thereof and such other particulars as may be prescribed. |
| Offences and of | <p>15 (1) Any registered operator who under Section 10 knowingly furnishes false returns shall on conviction be punished- penalty</p> <p>(a) Where the Cess attempted to be evaded by submission of the false returns exceeds rupees two thousand, with simple imprisonment for a term which shall not be less than six months and with fine which may extend to rupees two thousand; and</p> <p>(b) In any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which may extend to rupees one thousand.</p> <p>(2) Any operator who knowingly keeps false copies of bill or cash memorandum as required in Section 12 or other books as requires under Section 13 shall on conviction before a magistrate be punished with rigorous imprisonment for a term which shall not be less than three months but which may</p> |

extend to one year and with fine which may extend to rupees one thousand.

(3) Any operator who attempts in any manner to evade payment the Cess shall on conviction be punished-

(a) Where the amount involved exceeds rupees fifty thousand, with rigorous imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which may extend to rupees two thousand; and

(b) In any other case, with rigorous imprisonment for a term which shall not be less than three months but which may extend to one year and with fine which may extend to rupees one thousand.

(4) Whoever contravenes the provisions of Section 6 or fails to comply with those of Section 8 or Section 10 to issue a bill or cash memorandum to any customer as required under Section 12, or whoever obstructs an officer from discharging his duties under this Act, shall, on conviction be punished with imprisonment for a term which may extend to one year or with or with both.

(5) Whoever aids or abets any person in the commission of an offence under this Act or rules framed thereunder shall, on conviction, be punished with rigorous imprisonment which shall not be less than three months but which may extend to one year and with fine which may extend to rupees one thousand.

Cognizance of Offences

16 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 no Court inferior to that of a Magistrate of the first class shall try and such offence under this Act.

Power to make Rules

17 (1) The State Government may, by notification in the Offence Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for all or any of the following matters, namely-

- (a) The manner of payment or refund of Cess;
- (b) The form in which accounts and registers shall be maintained by an operator;
- (c) The manner in which registration under Section 6 is to be made and the forms of the licence to be granted;
- (d) The form of returns to be submitted;
- (e) The manner of and period for payment of the Cess; and
- (f) Any other matter which is required to be prescribed for the purpose of this Act;

Power to remove difficulties 18 Rules except rules made for the first time, shall be subject to the condition of previous publication for a period of not less than three weeks.

Repeal 19 If a ny di fficulty a rise in gi ving e ffect t o a ny provision of this Act the State Government may, by general or special order, do a nything not inconsistent with such provision for the purpose of removing the difficulty.

The Meghalaya (Mobile Phone Connection) Cess Ordinance, 2002 (Ordinance No. 3 of 2002) is hereby repealed.

