(A) STATE TAXATION PERSPECTIVES

In modern times, in the case of the State Governments, Sales Tax is the most important tax yielder. In 1950-51, Sales Tax accounted for about 25 per cent. This rose to 65 per cent in three and half decades (1985-86). Thus it appears that the taxation on sales has become an important fiscal tool in the hands of all State Governments and its importance is increasing every year. Rapid changes are being made in these tax laws to meet the fast growing demands of the revenue. The Sales Tax is not only productive on the points of view of revenue but has the additional merit of flexibility. By changing the rates of tax the yield can be adjusted to the revenue needs of the States.

HISTORY OF SALES TAX

Though Sales Tax in its present form is of recent origin, it is a tax which was not unknown in the past. A general sales tax was introduced in Rome by Augustus under the name of centesima rerum venatum in 9 A.D. and Comstock refers to a similar tax in the kingdom of Naples in the fifteenth century and a similar tax called alcavala in Spain.

In its present form Sales Tax came into existence after the First World War, when various Governments found it difficult to balance their budgets. France was the first to introduce the tax in 1914, followed by Germany, Italy, Czechoslovakia, Russia
and Belgium. The habit spread gradually to other continents. Canada introduced it in 1920, Australia in 1930 and by 1929 twenty-nine States in the United States of America had included this tax as a normal feature in their budgets.

In India, Megasthenes speaks of royal revenue being derived in the Mauryan times from taxes on sales. In its present form, however, the tax was first introduced in Madhya Pradesh in 1938 in the form of petrol tax. Madras took it up under the premiership of late Rajagopalachari in 1939. Thereafter the other provinces also took up this tax, one after the other as an additional source of their revenue.

NATURE OF SALES TAX

Sales tax is a tax levied on the occasion of the sale of goods. Under entry 54 in List-II of the Seventh Schedule of the Constitution, a State Legislature may legislate with respect to "taxes on the sale or purchase of goods other than newspapers, while under Entry 48 of the corresponding list in the Government of India Act, 1935, the Provincial legislatures can legislate only with respect to "Taxes on the sale of goods and on advertisements". But whether the tax is levied on a sale or a purchase, the essential nature of the tax is the same. It makes no difference when tax is legally imposed on buyers or sellers.

Relevant Provision in the Constitution of India - Art. 246

Article 246: Subject matter of laws made by Parliament and by the Legislatures of States.
(1) Notwithstanding anything in Cls. (2) and (3), Parliament has exclusive power to make laws with respect to any of the matters enumerated in List-I in the Seventh Schedule (in this Constitution referred to as the "Union List").

(2) Notwithstanding anything in Cls. (3) Parliament, and, subject to Cl. (1), the Legislature of any State also, have power to make laws with respect to any of the matters enumerated in List-III in the Seventh Schedule (in this Constitution referred to as the "Concurrent List").

(3) Subject to Cls. (1) and (2), the Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in List-II in the Seventh Schedule (in this Constitution referred to as the "State List").

(4) Parliament has power to make laws with respect to any matters for any part of the territory of India not included in a State notwithstanding that such matter is a matter enumerated in the State List.

Relevant Provisions under the Government of India Act, 1935

(Section 99 and 100 and Entry 48 of the
Seventh Schedule, List - II)

Section 99 (1) Extent of Federal and Provincial Laws:
Subject to the provision of this Act, the Federal Legislature may make laws for the whole or any part of
the British India or for any Federal State, and a Provincial Legislature may make laws for the province or for any part thereof.

(2) Without prejudice to the generality of the powers conferred by the preceding sub-section, no Federal law shall, on the ground that it would have extra-territorial operation, be deemed to be invalid in so far as it applies.

Section 100 (1) Notwithstanding anything in the two next succeeding sub-sections, the Federal Legislature has, and a Provincial Legislature has not, power to make laws with respect to any of the matters enumerated in List-I in Seventh Schedule to this Act (hereinafter called the Federal Legislature Lists).

(2) Notwithstanding anything in the next succeeding sub-section, the Federal Legislature and subject to the preceding sub-section, a Provincial Legislature also have power to make laws with respect to any other matters enumerated in List-III in the said Schedule (hereinafter called the Concurrent Legislature List).

(3) Subject to the two preceding sub-sections the Provincial Legislature has, and the Federal Legislature has not, power to make laws for a Province or any part thereof with respect to any of the matters enumerated in List-II in the said Schedule (hereinafter called the Provincial Legislature List).

(4) The Federal Legislature has power to make laws with respect to matters enumerated in the Provincial
The relevant provisions under the Constitution of India are Articles 246, 269, 286, 301 to 304.

**Legislative Competence**: Since the Legislature in country derives their jurisdiction to legislate under the Constitution, so the taxing statute have to satisfy the test of legislative competence for their validity.

**Legislative Competence : General** :- The Provincial Government in India were permitted under section 100(3), read with Entry 43 of List-II of the Seventh Schedule, of the Government of India Act, 1935, to levy taxes on the sale of goods, and corresponding Entries 53 and 54 of List-II of the Seventh Schedule of the Constitution of India, authorise the State Governments to levy "Taxes on the consumption or sale of Electricity" and "Taxes on the sale or purchase of goods other than Newspapers", respectively, the latter jurisdiction being subject to the right of the Central Government to levy similar tax under Entry 92-A of List-I of the same Schedule when the sale or purchase takes place in the course of inter-State trade or commerce.

The Power of the Provincial Legislature to levy a tax on the sale of the goods extended to sales of every kind whether first sales or not.
The power to legislate with respect to a tax comprehends the power to impose the tax, to prescribe machinery for collecting the tax, to designate the officers by whom the liability may be enforced and to prescribed the authority, obligations and indemnity of those officers. The diverse heads of legislations in the Seventh Schedule to the Constitution demarcate the periphery of legislative competence and include all matters which are ancillary or subsidiary to the primary head, for otherwise it may not be possible to have effective legislation on the subject.

The power to levy sales tax must, however, guard against violating Article 304(a) of the Constitution, and the tax may be only so levied that there is no discrimination between goods imported from other States and similar goods of local origin.

A. Tax on Sale or Purchase:

The word 'sale' has the same meaning in this Article as in entry 54 of List-II or Entry 92-A of List-I.

The transaction that is taxed is the transaction of sale which means the transfer of ownership from one person to another. The above expression means that the tax may be imposed upon either party to the transaction.

Briefly speaking, it has been held that a State Legislature is competent to tax a transaction as a 'sale' in exercise of its power under Entry 54 of List-II, only if such transaction amounts to a 'sale of goods' under the general law,
which means a sale in the sense in which it is used in S.4 of
the Sales of Goods Act, 1930. It has further been held that it
is not competent for the State Legislature to extend its power
to tax sales by bringing within the ambit of sales taxation
transactions which could not be 'sale' under the sale of Goods
Act. Any such extended definition of 'sale' for the purpose of
sales taxation would be 'ultra vires'. In Behubar Company Ltd.
Vs Commissioner of Taxes and others the Assam High Court, CR
No.117 of 1956 was held that the second proviso to section 2(12)
of the A.S.T. Act 1947 which provided that "any use by dealer
from his stock of any goo's liable to tax under the Act, shall
be deemed to be sale", transgressed the Constitutional power
conferred on the State Legislature by Entry 54 of List-II of the
Seventh Schedule of the Constitution and was therefore the said
proviso was ultra virus.

A State Legislature can not enlarge its powers of
taxation by including within the scope of the expression "Sale
of Goods" anything that was not intended to be included by the
framers of the Constitution. Although Entry 54 authorised levy
of tax not only on the sale of goods but also on the purchase of
goods. This power of the State Legislature under the
Constitution of India has not been enlarged. The expression
"Sale or purchase of goods" in the Entry would require a
transaction whereby the property in the goods is actually
transferred by the seller to the buyer for a price. Such case as
contemplated by the deemed provison to Section 2(12) does not
fell within the purview of the expression "Sale of goods".
However, after the Constitution Forty Sixth Amendment Act 1982, a new clause as clause 29 A under Art. 366 was inserted which enlarges the scope of levy of "tax on the sale or purchases of goods" clause 29 A of Act 366 reads as follows: -

"tax on the sale or purchase of goods" includes -

(a) a tax on the transfer otherwise than in pursuance of a contract, of property in any goods for cash, deferred payment of other valuable consideration;

(b) a tax on the transfer of property in goods (whether as goods or in some other form) involved in the execution of a work contract;

(c) a tax on the delivery of goods on hire-purchase or any system of payment by instalments;

(d) a tax on the transfer of the right to use any goods for any purpose (whether or not for a specified period) for Cash, deferred payment or other valuable consideration;

(e) a tax on the supply of goods by any unincorporated association or body of persons to a member thereof for Cash, deferred payment or other valuable consideration;

(f) a tax on the supply, by way of or as part of any service or in any other manner whatsoever, or goods, being food or any other article for human consumption or any drink (whether or not intoxicating) whether such supply or service, if for Cash, deferred payment or other valuable consideration; and such transfer, delivery or supply of any goods, shall be deemed to be a sale of those goods by the person making the transfer delivery or supply and a purchase of those goods by the person to whom such
whom such transfer, delivery or supply is made:

In pursuance to this Amendment the Government of Assam also levied tax on certain items of works contract and on lease or goods on rent of hire w.e.f. 1.4.89.

TAXES ON THE SALE OR PURCHASE OF GOODS:

The sales tax was the tax allotted to the States on the basis of the Krishnamachari Committee Report on account of loss of revenue to Indian States due to abolition of customs barriers. The sales tax now is not only among the largest single source of revenue to the State Government but it is also a source which has shown the greatest possibility in terms of revenue yield.

Entry 54 of State List empowers the State to impose sales tax, subject to the provisions of Art. 286, (92A, List - I) or any other provision of the Constitution.

The power to impose taxes on the sale or purchase of goods where such sale or purchase has taken place in the course of inter-State trade has been given exclusively to Parliament by Article 269(1)(g) and Entry 92A of List - I as inserted by the Constitution (7th Amendment) Act, 1956. In exercise of this power Parliament has provided for the levy of sales tax on inter-State sales by Chapter - III of the Central Sales Tax Act, 1956. Clause (3) of Article 269 confers upon
Parliament the power also to lay down the principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce, so as to be liable to the Union Sales Tax imposed under Article 269(1)(g). In exercise of this power Parliament has enacted section 3 of the Central Sales Tax Act, 1956.

RESTRICTION UPON IMPOSITION OF SALES TAX BY A STATE

The power to impose taxes on sale or purchase of goods other than newspapers belongs to the State (Entry 54 List-II). But taxes on 'imports' or 'exports' (Entry 83 List-I) and 'Inter-State trade and commerce' (Entry 42, List-I) and taxes on sale or purchase in course of inter-State trade or commerce (Entry 92 A, List-I) are exclusive union subjects. Art. 286 is intended to ensure that sales taxes imposed by the State does not interfere with imports and exports and inter-State trade or commerce, which are matters of national concern. Hence the present Article lays down certain limitations upon the power of the States, to enact sales tax legislation. These are -

1] (a) No tax shall be imposed on a sale or purchase which takes place outside the State [Cl.(1) (a)].
(b) No tax shall be imposed on a sale or purchase which takes place in the course of import into or export out of India [Cl. (1) (b)].

2] In connection with inter-State trade and commerce, there are two limitations -
(a) The power to tax sales taking in the course of inter-State trade and commerce is within the exclusive competence of Parliament [Art. 269(i)(g); Entry 92 A of List - I].

(b) Even though a sale does not take place 'in the inter-State trade or commerce' State taxation is subject to restriction and conditions imposed by Parliament if the sale relates to 'goods' declared by Parliament to be of special importance in 'inter-State trade and commerce' (Clause 3).

2] As laid down by the Supreme Court in the Bengal Immunity case, the limitations imposed by the different clause of Art 286 are cumulative and independent of each other. There is, of course, some overlapping between these different clauses in so far as the same transaction may possibly come under each one of them but such overlapping would not mean that the provisions of one of these clauses may be used for the purpose of lifting the ban imposed by the other clauses. A tax will not be valid under Article 286 so long as the ban imposed by any of the above mentioned clauses fastens upon the transaction. Art. 286, as originally worded created some controversy. In State of Bombay Vs. United Motors (1953 SC 252), consumption was laid down as a test for levying sales tax, and thus exporting State could not tax a sale under which the goods went to another State; goods could be taxed only by the State in which goods were actually delivered for consumption.
OBJECT OF AMENDMENT - ART. 286:

The explanation, which introduced a legal fiction to determine the situs of a sale, led to difference of opinion in the Supreme Court itself as to the scope of the explanation. In order to obviate such controversy, the explanation has been omitted and power has been given by the new Clause (2) to Parliament to lay down the principles for determining when a sale shall be deemed to have taken place within a State within the meaning of Clause (1)(a). In pursuance of the power, Parliament has enacted the Central Sales Tax Act, 1956, Sec. 4 of which provided a simple test of the physical location of the goods for determining the situs of a sale as between more than one State.

(2) Clause (2) did not altogether take away the legislative competence of the States to impose a tax on sales taking place in course of inter-State trade or commerce, but subjected it to legislation by Parliament. By Entry 92-A of List-I, introduced by the Constitution (sixth Amendment) Act, 1956, the legislative power to tax sales taking place in the course of inter-State trade and commerce has been rested exclusively in Parliament. Hence, the original clause (2) has become unnecessary.

(3) Instead of the essential goods, the new clause (3) deals with goods declared by Parliament to be of special importance in inter-State trade. This provision has been necessary in order to render effective the exclusive power of Parliament to tax sales taking place in the course of inter-State trade and commerce.
Even though a sale does not take place in the course of inter-State trade or commerce, State taxation shall be subject to parliamentary control if the sale relates to goods which are of special importance in inter-State trade as declared by Parliament. This is another provision devised to eliminate State barriers to the free flow of inter-State transaction.

PRINCIPLES FOR DETERMINING WHEN A SALE OR PURCHASE OF GOODS TAKES PLACE IN THE COURSE OF INTER-STATE TRADE OR COMMERCE.

In exercise of the power under Art. 269 (1)(g) Parliament has enacted the Central Sales Tax Act, 1956. Sec. 3 of the Act lays down the principles for determining when a sale or purchase of goods take place in the course of inter-State trade and commerce. A sale or purchase of goods is deemed to take place in the course of inter-State trade and commerce if the sale or purchase (a) occasions the movement of goods from one State to another or (b) is effected by a transfer of documents of title to the goods during their movement from one State to another. A sale becomes a sale in the course of inter-State trade under section 3(a) if the movement of goods from one State to another is incident of the contract of sale, and the property of the goods passes to the purchaser otherwise than by transfer of documents of title when the goods are in movement from one State to another. A sale contemplated by clause (b) is one which is effected by transfer of documents of title to the goods during their movement from one State to another. The two clauses of section 3 are mutually exclusive. The Supreme Court
has held in a number of cases (Tata Iron and Steel Co. Ltd. vs. S.B. Sarkar (1960) II STC 655 SC, State of Jammu and Kashmir vs. Caltex (India) Ltd. (1966, 17 STC 612 SC) that if the movement of goods from one State to another is the result of a covenant or an incident of the contract of sale, then the sale is an inter-State sale. The inter-State movement must be the result of a covenant express or implied in the contract of sale or an incident of the contract. It is not necessary that the sale must precede the inter-State movement in order that the sale may be deemed to have occasioned such movement. It is also not necessary for a sale to be deemed to have taken place in the course of inter-State trade or commerce. That the covenant regarding inter-State movement must be specified in the contract itself. It should be enough if the movement was in pursuance of or incidental to the contract of sale. The decision of the Supreme Court in the case of Oil India Ltd. vs. Superintendent of Taxes, Tinsukia, Assam (1975) 35 STC 445, 449 SC) is a landmark one in the point of revenue of the State of Assam. The fact in this case (Oil India Ltd. vs. Superintendent of Taxes and others) was that M/s Oil India Ltd. - the petitioner has its Head Office in the State of Assam and is engaged in the business of prospecting petroleum and also producing and transporting crude oil from the State of Assam to the Barauni Refinery at Bihar. At Barauni Refinery the crude oil which flows through the pipes from the oil fields of Assam is pumped into the Indian Oil Corporation's tank and after the measurement, the said crude oil is taken delivery by the Indian Oil Corporation.
The petitioner company has been filing Sales Tax returns before the Bihar Sales Tax Authority under the Bihar Sales Tax Act and was being assessed under that Act for the supply of crude oil to the refinery at Barauni treating the supply as intra-State sale whereas Sales Tax Authority of Assam insisted such sale as inter-State sale between Assam and Bihar. The question for consideration is whether the sales made by the petitioner were sales in the course of inter-State trade and commerce.

It was held by the Supreme Court that if the movement of goods from one State to another is the result of a convenant or an incident of the contract of sale, then the sale is an inter-State sale. Here, the crude oil was carried from Assam through the pipe lines specially constructed by the petitioner to the refinery at Barauni in Bihar and there the oil was pumped and delivered to the Indian Oil Corporation. Clause 12 of the agreement dated January 14, 1958, provides that the petitioner shall arrange for the construction of pipe lines or such other related facilities as the company shall consider necessary for the transport of crude oil to be produced by it to the refinery at Barauni. This would indicate that the construction of pipe line was undertaken by the petitioner in pursuance to the agreement and that was for the specific purpose of transporting crude oil to Barauni from Assam. This can only point to the conclusion that the parties contemplated that there should be movement of goods from the State of Assam to the State of Bihar pursuance to the contract of sale.
Clause 7 of the 1961 agreement must need be read with its precursory clause 12 of the 1958 agreement since all the contracting parties were well aware of their respective obligations in the transactions arising out of the several agreements not one of which can be left out of consideration.

Even though clause 7 of the supplemental agreement does not expressly provide for movement of the goods, it is clear that the parties envisaged the movement of crude oil in pursuance to the contract from the State of Assam to the State of Bihar. In other words, the movement of crude oil from the State of Assam to the State of Bihar was an incident of the contract of sale. No matter in which State the property in the goods passes, a sale which occasions "movement of goods from one state to another is a sale in the course of inter-State trade". The inter-State movement must be the result of a convenant express or implied in the contract of sale or an incident of the contract. It is not necessary that the sale must precede the inter-State movement in order that the sale may be deemed to have occasioned such movement. It is also not necessary for a sale to be deemed to have taken place in the course of inter-State trade or commerce, that the convenant regarding inter-State movement must be specified in the contract itself. It would be enough if the movement was in pursuance of and incidental to the contract of sale.

If the movement of goods is the result of contract and is an incident to the agreement between the parties, the
transaction will remain a sale in course of inter-State trade. No matter in which State the delivery of the goods is taken place by the purchaser. (Oil and Natural Gas Commission V. State of Bihar (1976) 31 STC 435 SC). In Union of India V. Khosla & Co. Ltd. (1979) 43 STC, 457, 462 SC the Supreme Court made it explicitly clear that for the purpose of section 3(a) of the Act it is not necessary that the contract of sale must itself provide for and cause the movement of goods or that movement must be occasioned specifically in accordance with the terms of the contract. Sale by transfer of documents - clause (b) of Section - 3 The sale contemplated by clause (b) is one which is effected by transfer of documents of title to the goods during their movement from one State to another. Accordingly a sale effected by transfer of documents of title after the commencement of movement and before its conclusion as defined by the two terms set out in explanation (1) and no other sale will be regarded as inter-State sale under section 3(b). Therefore, within clause (b) of section 3 are includes sales in which the property in the goods passes during the movement of the goods from one State to another by transfer of documents of title thereto (Tata Iron and Steel Co. Ltd. V. S.R. Sarkar (1960) II STC 655, 666, 667 SC).

Declared Goods: The Central Sales Tax Act by virtue of the amended Art. 286(3) also declared the variety of goods to be of special importance in inter-State trade or commerce; (i) Cereals (ii) Cotton, Cotton yarn (excluding cotton yarn waster), Cotton fabrics (iii) Rayon or art silk fabrics (iv) Woolen fabrics (v)
Sugar (vi) Tobacco (vii) Coal (viii) Crude oil (ix) Hides and skins (x) Iron and steel (xi) Jute (xii) Oil seeds and (xiii) Pulses. Section 15 of the Central Sales Tax Act, 1956 has the effect of laying down the following restrictions on the powers of the State legislature in regard to levy of local sales tax on these goods within their respective States.

(a) the rate of sales tax cannot (at present) exceed 4%
(b) the tax cannot be levied at more than one stage, if the tax on the local sale has been levied and if such goods are later sold in inter-State trade, the local tax is refundable.

TAXATION AND FREEDOM OF TRADE, COMMERCE AND INTERCOURSE

Art. 301 lays - subject to other provisions of this part, trade, commerce and intercourse throughout the territory of India shall be free.

Art. 301 guarantees freedom not only from geographical barriers but also from restrictions imposed upon the individual to carry on trade or business, other than regulatory measures.¹

Tax laws are outside the purview of Part III of the Constitution.¹,² But it is only such taxes as 'directly' and immediately restrict trade that fall within the purview of Art. 301.²

In determining whether a tax directly offends against Art. 301 it is the movement of the goods which are the subject of the trade.

It has to be borne in mind, if a tax is imposed solely on the basis that the goods are carried or transported, that directly affects the freedom of trade as contemplated by Art 301. Imposition of tax on sale or purchase by itself does not interfere with the freedom of trade and commerce.

A tax on thing used in inter-State Trade and commerce may offend against Art. 301 if it is so excessive and prohibitive as to become an impediment in the free flow of trade and commerce, e.g. an excise duty on foreign liquor.

But the following would not constitute infringement of the freedom guaranteed by Art. 301,

(1) Regulatory measures which promote trading facilities.

(ii) Compensatory taxes for the use of trading facilities, e.g. tax for maintenance of roads, bridges etc.

(B) STATE TAXATION IN ASSAM

Like all other States, Sales Tax among all the State Tax is the most potent and major progressive source of revenue yielder in Assam which can be easily shown from the following table.

* Receipt of the Government of Assam
(Rupees in Lacs.)

<table>
<thead>
<tr>
<th>Heads</th>
<th>1988-89</th>
<th>1989-90</th>
<th>1990-91</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Land Revenue</td>
<td>667</td>
<td>642</td>
<td>674</td>
</tr>
<tr>
<td>2. State Excise</td>
<td>934</td>
<td>949</td>
<td>1015</td>
</tr>
<tr>
<td>3. Agricultural income tax</td>
<td>2698</td>
<td>3300</td>
<td>6000</td>
</tr>
<tr>
<td>4. Sales Tax</td>
<td>19295</td>
<td>22760</td>
<td>25005</td>
</tr>
<tr>
<td>5. Motor vehicles taxation Act</td>
<td>1022</td>
<td>1064</td>
<td>1170</td>
</tr>
<tr>
<td>6. Other taxes and duties</td>
<td>1897</td>
<td>2087</td>
<td>2254</td>
</tr>
</tbody>
</table>

In view of the above, Sales Taxation is discussed in detail in the following chapters.

So far as the State of Assam is concerned, it happens to be one of those States where sales tax was imposed at a very early date. Sales Tax was first visualised in the Report of the

RE = Revised Estimate. B.E. = Budget Estimate

*Source - Statistical Handbook of Assam, 1990.
Taxation Enquiry Committee in 1924-25. In 1938, the State of Madras and the then Government of Central Province, now Madhya Pradesh took lead in introducing Sales Tax. The question of imposing tax on the sale of goods in Assam was considered from time to time and two legislative measures. The Assam Sales of Motor Spirit and Lubricants Taxation Act, 1939 (Assam Act IV of 1939) and the Assam Sales Tax Act, 1939 (Assam Act V of 1939) were adopted as far back as 1939 with the object of levying a "selective" tax on the sale of certain goods.

SHORT HISTORY OF DIFFERENT SALES TAX ACTS IN ASSAM

A.(1) Assam Sales Tax Act, 1947 - In the absence of inter-provincial co-operation and of custom barriers, the economic pressure for exodus of business under a "selective" Tax is great and can assume enormous proposition. The pitch of taxation can also accelerate the pace. In such circumstances, a selective Provincial Sales tax defeats its own purpose because by the proposition of such a tax a province not only stands to lose the revenue, but also the trade. The question of substituting the non-effective Sales tax of 1939 by another on the lines of Bengal Sales Tax was raised from time to time. It was eventually decided to place an Officer on Special Duty to study the operation of the Act elsewhere and to draw up a scheme for Assam.

Sometime in November, 1945, late A.N.M. Saleh, then Commissioner of Excise was entrusted with the responsibilities
of preparation of a Draft Sales Tax Bill for Assam. He made a study of the Madras, Bengal and Bihar Act and prepared a Draft Sales Tax Bill. The Assam Sales Tax Bill was modelled on the general pattern of Bengal Sales Tax Act with such modification as were necessary to suit local needs. The Bill was passed by the Assam Assembly in the year 1947 and it became an Act on 12th December, 1947 (Act XVII of 1947).

The Act levies a tax on sale of commodities generally except those specifically exempted and liability to pay tax under the Act started from 1st February, 1948. The object of the Act is to tax sales to actual consumers and unregistered dealers. Goods are thus taxed at only one stage of their journey from the wholesaler to the actual consumer, that stage being the final stage of sale to the consumer. The tax is to be paid by every dealer whose gross turnover in a financial year exceeds a certain limit, now it is Rs. 20,000.00. The rates of tax are different for different categories which at present varies from 3% to 7%. The yield from this Act was Rs. 55,09,902.00 in 1950-51 which comes to Rs. 5.2 crore in 1985-86.

2. **The Assam Finance (Sales Tax) Act, 1956**: The Act came into force with effect from 1.7.1956. In order to combat evasion of taxes, it was decided to levy tax on some selective items mostly imported from outside the State which is a first point tax and also a single point. There are different rates of tax under the Act which varies from 4% to 50%. Unlike Assam Sales Tax Act, 1947, there is no qualifying exemption limit for
registration. Any dealer who sells taxable goods under the Act, which are brought from outside the State or manufactured within the State are liable to be registered and pay the taxes. The yield from this Act shows a progressive trend which was Rs. 17,23,960.00 in 1960-61 and which comes to Rs. 48.83 crore in 1985-86.

3. Assam (Sales of Petroleum and Petroleum Products including Motor Spirit and Lubricant Taxation Act, 1955):

The first Province in India to levy sales tax on motor spirit was the Central Province (now Madhya Pradesh) and Bihar which levied a tax on motor spirit in 1938. The Government of India opposed the levy and challenged its legality before the Federal Court, one of the grounds being that the levy amounted to an excise duty and came under Entry 45 of the Federal List. The Court, however, decided in favour of the Provincial Govt.

Following the lead of the Central Provinces & Bihar most other provinces passed similar Acts in the course of a year. In Assam the tax was levied on retail sale of motor spirit, diesel oil and lubricants under the Assam Sale of Motor Spirits and Lubricants Tax Act, 1939. In order to stop evasion of taxes, it was decided to levy the tax on the first stage of sale by the producers and importers. Accordingly, a Bill was drafted and the new Act, viz. The Assam (Sale of Petroleum and Petroleum products including Motor Spirit and Lubricants) Taxation Act, 1955, after being passed by the Legislature, came into force effect from May 1, 1956 in place of the Act of 1939. It levies a
tax on sale of motor spirit, diesel oil, lubricants, crude oil, coke, petroleum gas etc. Originally under the Act, tax was levied on quantity sold and since 1982 it was converted to ad valorem. The rate of tax varies from 2% to 25%. Assam being a petroleum oil producing State, the yield from this Act increases progressively from Rs. 1 crore in 1960-61 to Rs. 57.17 crore in 1987-88.

(4) The Central Sales Tax Act, 1956: Following the recommendation of the Taxation Enquiry Commission, the Government of India introduced a Bill before the Parliament on 21st November, 1956, which was passed as the Central Sales Tax Act, 1956, and which came into force with effect from 5th January, 1957. This is an Act to formulate principles for determining when a sale or purchase of goods takes place in the course of inter-State trade or commerce or outside a State, or in the course of import into or export from India, to provide for the levy, collection and distribution of tax on sales of goods in the course of inter-State trade or commerce and to declare certain, goods to be of special importance in inter-State trade or commerce and specify the restrictions and conditions to which State laws imposing taxes on the sale or purchase of such goods of special importance shall be subject. Under this Act, the various State Governments were empowered to collect tax on sales of goods exported from the respective States to other States and retain the proceeds of the tax realised from the dealers within the respective States. The yield from this act was Rs. 3,26,844.00 in 1960-61 which comes to 47.43 crore in 1987-88.

This Act was brought into force with effect from 29.5.68 vide Notification NO.FTX.57/67/114 dated 28.5.68. Before the Act was brought into force the charging section of original Act, namely section 3(1) was substituted by the Assam Purchase Tax (Amendment) Act, 1968 (Assam Act VII of 1968). Section 3, the charging section, was again substituted by the Assam Act XIX of 1971 which was brought into force with effect from 3.7.71. Section 3 as it stood till 2.7.71 was declared ultra vires by the Gauhati High Court in Gokul Chand Kastur Chand V. State of Assam, 1973. The levy of tax, therefore, became operative only with effect from 3.7.71. Under this Act, tax on last purchase of only four items viz (1) raw jute, (ii) raw hides and skins, (iii) paddy, (iv) bones of animals, birds, reptiles and fishes was imposed. The rate of tax varies from 2 paise to 4 paise per rupee. The yield from this Act was Rs. 92 lakh in 1975-76 and was Rs. 1.63 crore in 1986-87.

The above mentioned four Acts, except the Central Sales Tax Act, are termed as Sales Tax Laws of the State and for all practical purposes, these four Acts are to be considered together. Besides the above four Acts, another major contribution to the State Exchequer is the Assam Agricultural Income Tax Act, 1939.