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ORISSA ACT 4 OF 1987

THE ORISSA SALES TAX (AMENDMENT) ACT, 1987

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An Act to Amend the Orissa Sales Tax Act, 1947

Be it enacted by the Legislature of the State of Orissa in the Thirty-eighth Year of the Republic of India, as follows :—

Short title
and commence-
ment.

1. (1) This Act may be called the Orissa Sales Tax (Amendment) Act, 1987.

(2) Sections 2 and 3 shall be deemed to have come into force on the 7th day of April, 1984 and all other provisions of the Act shall be deemed to have come into force on the 15th day of December, 1986:

Amendment
of Section 20

2. In Section 2 of the Orissa Sales Tax Act, 1947^{Orissa Act 4 of 1947} (hereinafter referred to as the principal Act), for clause (c) including the Explanations thereunder and clause (d), the following clauses shall be substituted, namely :—

“(c) ‘Dealer’ means any person who carries on the business of purchasing, selling, supplying or distributing goods (including goods used or involved in the execution of works contract, whether as goods or in some other form directly or otherwise, whether for each or for deferred payment or for commission, remuneration or other valuable consideration and includes,—

(i) a local authority; company, and undivided Hindu family; any society (including a Co-operative Society); club; firm or association which carries on such business ;

(ii) a society (including a Co-operative Society); club, firm association or body of persons whether incorporated or not which purchases goods from or sells, supplies or distributes goods to members thereof for cash, deferred payment or other valuable consideration ;

(iii) a commission agent, a broker, a del credere agent an auctioneer or any other mercantile agent by whatever name called, who carries on the business of purchasing, selling supplying or distributing goods on behalf of any principal whether disclosed or not;

(iv) a casual dealer ;

(v) a person who transfers, otherwise than in pursuance of a contract, property in any goods for cash, deferred payment or other valuable consideration ;

(vi) a person who transfers property in goods (whether as goods or in some other form) involved in the execution of a works contract ;

(vii) a person who delivers goods on hire-purchase or any system of payment by instalments ;

(viii) a person who transfers the right to use in goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration ;

(ix) a person who supplies by way of or as part of any service or in any other manner, goods, being food or any other article of human consumption or any drink (whether or not intoxicant), whether such supply or service is for cash, deferred payment or other valuable consideration.

Explanation. I—Every person who acts as an agent on behalf of a dealer residing outside the State and purchases, sells, supplies or distributes goods in the State or acts on behalf of such dealer as—

- (i) a mercantile agent as defined in the Indian Sale of Goods Act, 1930, or
- (ii) an agent for handling goods or documents of title relating to goods, or
- (iii) an agent for the collection or payment of the sale price of goods or as a guaranter for such collection or payment,

and every local branch of a firm registered outside the State or of a company the principal office or headquarters whereof is outside the State, shall be deemed to be a dealer for the purposes of this Act.

Explanation II—The Central Government or a State Government or any of their employees acting in official capacity on behalf of such Government, who, whether or not in the course of business, purchases, sells, supplies or distributes goods, directly or otherwise for cash or for deferred payment or for commission, remuneration or for other valuable consideration, shall except in relation to any sale, supply or distribution of surplus unserviceable or old stores

or materials or waste products or obsolete or discarded machinery or parts or accessories thereof, be deemed to be a dealer for the purposes of this Act.

- (d) 'Goods' means all kinds of moveable property other than actionable claims, stock, share or securities and includes goods used or involved in the execution of works contract whether as goods or in some other form; all growing crops, grass and things attached to or forming part of the land which are agreed before sale or under contract of sale to be severed."

Amendment
of Section 5.

3. In Section 5 of the principal Act, in sub-section (2), for clause (AA), the following clause shall be substituted, namely :—

"(AA) Notwithstanding anything contained in sub-section (2) (A) ;

"Taxable turnover" in respect of,—

- (i) "works contract" shall be deemed to be the gross value received or receivable by a dealer for carrying out such contract, less the amount of labour charges and service charges incurred for the execution of this contract ;
- (ii) "delivery of goods on hire purchase or any system of payment by instalments" shall be deemed to be the hire-purchase price or total sum payable by the person for the purchase of goods, irrespective of the payment of the price in periodical instalments."

Amendment
of Section 11.

1. In Section 11 of the principal Act, in sub-section (3),—

- (a) in the Explanation, after the words "or by a crossed bank draft"; the words, letters, brackets and figures "or by a certificate granted under sub-section (2) of section 13-AA" shall be inserted ;
- (b) in the proviso to the Explanation, after the words "crossed bank draft", the words, letter, brackets and figures "or if the certificates granted under sub-section (2) of Section 13-AA" shall be inserted.

Amendment
of Section
13.

5. In Section 13 of the principal Act,—

- (a) in sub-section (2), after the words and comma "showing the payment of such amount," the words "or a certificate granted under sub-section (2) of section 13-AA or" shall be inserted;

(b) in sub-section (4),—

(i) after clause (e) the following new clause shall be inserted, namely:—“(ee) penalty imposed under sub-section (5) of Section 13-AA, or”;

(ii) in the concluding paragraph occurring after clause (f), after the words “by the dealer” the words and commas “or the person, as the case may be,” shall be inserted; and

(c) in the third proviso to sub-section (5), after clause (ii), the following clause shall be inserted, namely:—

“(ii-a) the penalty imposed under sub-section (5) of Section 13-AA, or.”

Insertion of
Section
13-AA.

6. After Section 13-A of the Principal Act, the following new section shall be inserted, namely:—

Deduction
of tax at
source from
the payment
to works
contractor.

13-AA. (1) Notwithstanding anything contained in Section 13 or any other law or contract to the contrary, any person responsible for paying any sum to any contractor for carrying out any works-contract in pursuance of a contract between the contractor and—

- (a) Central Government or any State Government, or
- (b) any local authority, or
- (c) any authority or Corporation established by or under a statute, or
- (d) any company incorporated under the Companies Act, 1956 including any State or Central Government undertaking, or
- (e) any Co-operative Society or any other Association registered under the Societies Registration Act, 21 of 1964, 1860,

shall at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or any other mode, whichever is earlier, deduct an amount towards sales tax equal to two per centum of such sum in respect of the works contract :

Provided that if the value of the works contract does not exceed rupees one lakh, no such deduction shall be made.

(2) While making deduction as referred to in sub-section (1), the deducting authority shall grant a certificate to the contractor in the form prescribed and shall send a copy thereof to the Sales Tax Officer within whose jurisdiction the works contract is executed.

(3) The amount deducted from the Bills or Invoices shall be deposited into the Government Treasury within one week from the date of deduction in such form or challan as may be prescribed.

(4) Such deposit into the Treasury shall be adjusted by the Sales Tax Officer towards the sales tax liability of the works contractor and would also constitute a good and sufficient discharge of the liability of the deducting authority to the contractor to the extent of the amount deposited.

(5) If any person contravenes the provisions of sub-section (1) or sub-section (2) or sub-section (3) of this Section, this Sales Tax Officer shall, after giving him an opportunity of being heard, by an order in writing, impose on such person penalty not exceeding twice the amount required to be deducted and deposited by him into Government treasury."

Amendment
of
Section 13-B.

7. In Section 13-B of the Principal Act, after the words "of the said section" the words, figures and letters "or any amount which a person is required to deduct and deposit into the Government Treasury under the provisions of Section 13-AA" shall be inserted.

Amendment
of
Section 23.

8. In Section 23 of the Principal Act,—

(a) in sub-section (4) —

(i) in clause (a) and in the proviso to the said clause, after the word "dealer" the words "or person" and "or the person" shall respectively be inserted;

(ii) in clause (c), after the words "Any dealer" the words "or person" shall be inserted; and

(b) in sub-section (6), after the words "Any dealer" the words "or person" shall be inserted.

Repeal and
savings.

9. (1) The Orissa Sales Tax (Second Amendment) Ordinance, 1986 and the Orissa Sales Tax (Third Amendment) Ordinance, 1986, are hereby repealed.

Orissa
Ordinance
No. 4 of
1986.

(2) Notwithstanding such repeal, any order made, anything done or any action taken under the principal Act as amended by the said Ordinances shall be deemed to have been made, done or taken under the principal Act as amended by this Act.

Orissa
Ordinance
No. 7 of
1986.