

GOVERNMENT OF ORISSA
LAW DEPARTMENT

ORISSA ACT 21 OF 1957
**THE ORISSA AGRICULTURAL INCOME-TAX (AMENDMENT)
ACT, 1957**

TABLE OF CONTENTS

PREAMBLE

SECTIONS

1. Short title and commencement
2. Amendment of section 2, Orissa Act 24 of 1947
3. Adaptation and savings
4. Validation of imposition of tax in relation to merged territories
5. Amendment of sections 17, 19 to 21, 30, 31, 34, 35, 36 and 42, Orissa Act 24 of 1947.
6. Substitution of sections 18 and 18-A for sections 18, 18-A, 18-B and 18-C, Orissa Act 24 of 1947.
7. Amendment of section 25, Orissa Act 24 of 1947
8. Amendment of section 26, Orissa Act 24 of 1947
9. Repeal of section 27, Orissa Act 24 of 1947
10. Amendment of section 28, Orissa Act 24 of 1947
11. Amendment of section 29, Orissa Act 24 of 1947
12. Amendment of section 33, Orissa Act 24 of 1947
13. Savings
14. Amendment of section 50, Orissa Act 24 of 1947

ORISSA ACT 21 OF 1957
THE ORISSA AGRICULTURAL INCOME-TAX
(AMENDMENT) ACT, 1957

[Received the assent of the Governor on the 21st August 1957, first published in an extraordinary issue of the Orissa Gazette, dated the 5th September 1957]

AN ACT FURTHER TO AMEND THE ORISSA AGRICULTURAL
 INCOME-TAX ACT, 1947

WHEREAS it is expedient to amend the Orissa Agricultural Income Tax Act, 1947, in the manner hereinafter appearing ;

It is hereby enacted by the Legislature of the State of Orissa in the Eighth year of the Republic of India as follows :—

Short title
and com-
mencement.

1. (1) This Act may be called the Orissa Agricultural Income Tax (Amendment) Act, 1957.

(2) It shall come into force on such date as the State Government may, by notification, appoint.

Amendment
of section 2,
Orissa Act
24 of 1947.

2. For section 2 of the Orissa Agricultural Income Tax Act, 1947 (hereinafter referred to as the said Act), the following section shall be substituted, namely :—

Definitions

"2. In this Act, unless there is anything repugnant in the subject or context,—

(a) "Agricultural Income" means—

(1) any rent or income derived from land which is used for agricultural purposes, and is either assessed to land revenue in the State of Orissa or subject to a local cess or rate assessed and collected, by officers of the State Government as such ;

(2) any income derived from such land by—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

* For statement of objects and reasons see O. G. extraordinary, dated the 31st May 1957 and for S. C. R. see O. G. extraordinary, dated the 5th July 1957.

** The provisions of all the sections of the said Act came into force with effect from the 2nd December, 1957 (Vide notification No. 30992-F dated the 30th November 1957, O. G. extraordinary, dated the 1st December 1957).

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him in respect of which no process has been performed other than a process of the nature described in paragraph (ii) ;

(3) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator or the receiver of rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in paragraphs (ii) and (iii) of sub-clause (2) is carried :

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling house or as a store house, or other out-building ;

(b) " agricultural income-tax " means the tax payable under this Act ;

(c) " agricultural year " means where the Oriya year prevails, the year commencing on the first day of Baisakh ; where the Fasli or Amlī year prevails the year commencing on the first day of Aswin ; and where any other year prevails for agricultural purposes, that year ;

(d) " assessee " means a person by whom agricultural income-tax is payable ;

(e) " Company " means a company as defined in the Indian Companies Act, 1956 or formed in pursuance of an Act of the United Kingdom or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in the Union of India, whether incorporated or not and whether its principal place of business is situate in the said Union or not which the State Government may, by general or special order, declare to be a company for the purposes of this Act ;

1 of 1956

(f) " financial year " means the year beginning on the first day of April and ending on the 31st day of March next following ;

(g) "firm" has the same meaning as in the ^{IX of 1932} Indian Partnership Act, 1932 ;

(h) "landlord" means any individual, who receives rent in cash or kind from a tenant and includes a 'landlord' as defined in the Orissa Tenancy Act, 1913, Central Provinces Tenancy Act, 1898, Central Provinces Tenancy Act, 1920, and 'landholder' as defined in the Madras Estates Land Act, 1908 ;

B. & O. Act
II of 1913,
C.P. Act XI
of 1898, C.P.
Act I of
1920. Ma-
dras Act
I of 1908.

(i) "person" means any individual or association of individuals, owning or holding property for himself or for any other, or partly for his own benefit and partly for another, either as owner, trustee, receiver, common manager, administrator or executor or in any capacity recognised by law and includes a Hindu undivided family, firm and company ;

(j) "prescribed" means prescribed by rules made under this Act ;

(k) "previous year" means the twelve months ending on the 31st day of March preceding the year for which the assessment is to be made or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the 31st day of March then at the option of the assessee the year ending on the day to which his accounts have been so made up :

Provided that if the option has once been exercised by an assessee he shall not exercise it again so as to vary the meaning of the expression "previous year" as then applicable to him except with the consent of any agricultural income-tax authority and upon such conditions as he may think fit :

Provided further that any agricultural year terminating not later than one month after the end of the previous financial year may be recognised as the 'previous year' ;

(l) "principal officer" used with reference to a company or any other association means—

(i) the Secretary, treasurer, manager or agent of the company or association, or

(ii) any person, connected with the company or association upon whom any agricultural income-tax authority has served a notice of his intention of treating him as principal officer thereof ;

(m) "State of Orissa" shall for the purpose of imposition of agricultural income-tax under this Act include and shall be deemed always to include the merged territories now forming part of the said State—

(i) with effect from the 1st day of April 1948 in respect of the said territories other than Mayurbhanj ;

(ii) with effect from 1st day of April 1949 in respect of the merged territory of Mayurbhanj ; and

(n) "total agricultural income" means the aggregate of the amounts of agricultural income derived from land situate in the State of Orissa and received whether within or without the said State and determined in the manner laid down in sections 6 and 7.

Adaptation
and savings.

3. (1) For the words "Collector of Agricultural Income Tax" wherever they occur in the said Act the word "Commissioner" shall be substituted.

(2) Any reference in the said Act, or in the rules, orders or notifications made or issued thereunder by the Collector of Agricultural Income-tax or any other Agricultural Income-tax authority, shall be read and construed as a reference respectively to the corresponding authority appointed under section 18 as hereinafter amended and such rules, orders or notifications shall have force and effect accordingly.

(3) Save as otherwise expressly provided in this Act, all proceedings started, notices or notifications issued, orders passed, decisions made, actions taken or things done by the Collector of Agricultural Income-tax or such other Agricultural Income-tax authority shall have full force and effect to all intents and purposes and to the same extent as if such proceedings, notices, notifications, orders, decisions, actions or things had been started, issued, passed, made, taken or done by the corresponding authority under the said Act or rules made thereunder as amended by or under this section.

Validation
of imposition
of tax in re-
lation to
merged
territories.

4. Notwithstanding any judgment, decree or order of any Court no order imposing or authorising the imposition of Agricultural Income-tax and penalty on any person during the financial year 1949-50 assessed on the total agricultural income of the previous year in relation to any merged territories which formed part of the State of Orissa as defined in

clause (m) of section 2 of the said Act as amended by this Act shall be deemed to be invalid and all such taxes levied or collected or purporting to have been levied or collected during the said year shall be deemed always to have validly levied or collected in accordance with law.

A amendment of sections 17, 19 to 24, 30, 31, 34, 35, 36 and 42, Orissa Act 24 of 1947.

5. In sections 17, 19, 20, 21, 22, 23, 24, 30, 31, 34, 35, 36 and 42 of the said Act for the words "Agricultural Income-tax Officer or the Assistant Agricultural Income-tax Officer" wherever they occur, the words "any income-tax authority appointed under sub-section (3) of section 18" shall be substituted.

Substitution of sections 18 and 18-A for sections 18, 18-A, 18-B and 18-C, Orissa Act 24 of 1947.

6. For sections 18, 18-A, 18-B and 18-C of the said Act, the following sections shall be substituted, namely :—

Income-tax authorities, their powers and functions.

"18. (1) The Commissioner of Sales-tax appointed as such for the time being under the provisions of the Orissa Sales Tax Act, 1947, shall be the Commissioner of Agricultural Income-tax and he shall exercise such powers and discharge such functions as are or may be conferred or imposed by or under the provisions of this Act.

Orissa Act 14 of 1947.

(2) The Sales Tax Tribunal or the Additional Sales Tax Tribunal as the case may be appointed as such under the provisions of the Orissa Sales Tax Act, 1947, shall be the Agricultural Income-tax Tribunal or the Additional Agricultural Income-tax Tribunal as the case may be for the purpose of exercising such judicial powers as are or may be conferred by or under the provisions of this Act, or the rules made thereunder.

Orissa Act 14 of 1947.

(3) The State Government may appoint such other persons under any prescribed designations including that of a Deputy Commissioner to assist the Commissioner and they shall exercise such powers and perform such duties as may be conferred or imposed by or under the provisions of this Act.

Powers and functions of the Commissioner.

18-A. Without prejudice to any other functions that the Commissioner may perform under the provisions of this Act, he shall also exercise the following powers and discharge the following functions :—

(i) to superintend and control all persons employed in the executive administration of agricultural income-tax ;

(ii) subject to the provisions of this Act and rules made thereunder, to make rules of procedure and conduct of administration for the guidance of all persons subordinate to him ;

(iii) to call for any record from any subordinate officer and also to call for any papers in connection with any assessment ; and

(iv) to inspect the records and to superintend the work of officers subordinate to him and their offices."

7. In section 25 of the said Act —

amendment
of section
25, Orissa
Act No. 24 of
1947.

(a) to sub-section (1) the following proviso shall be added, namely :—

"Provided that no appeal shall be entertained by the said authority unless he is satisfied that such amount of tax as the appellant may admit to be due from him has been paid";

(b) the proviso to sub-section (5) shall be omitted.

amendment
to section 26,
the Act
1947.

8. For section 26 of the said Act the following section shall be substituted, namely :—

" 26 (1) Any assessee or as the case may be, the State Government dissatisfied with an appellate order made under sub-section (5) of section 25 may, within thirty days from the date of receipt of such order, prefer an appeal in the prescribed manner to the Agricultural Income Tax Tribunal or the Additional Agricultural Income Tax Tribunal as the case may be against such order.

(2) The assessee or the State Government as the case may be, on receipt of notice that an appeal has been preferred under sub-section (1) may, notwithstanding that the said assessee or the State Government may not have appealed against such order or any part thereof, within thirty days of the service of the notice, file a memorandum of cross objections and such memorandum shall be disposed of by the said Agricultural Income Tax Tribunal or the Additional Agricultural Income Tax Tribunal as the case may be as if it were an appeal presented within the time under sub-section (1).

(3) Any order made by the Agricultural Income Tax Tribunal or the Additional Agricultural Income Tax Tribunal as the case may be under sub-section (2) shall be final.

Repeal of section 27, Orissa Act 24 of 1947.

9. Section 27 of the said Act is hereby repealed.

Amendment of section 28, Orissa Act 24 of 1947.

10. For section 28 of the said Act the following section shall be substituted, namely :—

“28. (1) Subject to such rules as may be made and for reasons to be recorded in writing, the Commissioner may, upon application by an assessee or on his own motion revise any order made under this Act or the rules made thereunder by any person other than the Agricultural Income Tax Tribunal or the Additional Agricultural Income Tax Tribunal as the case may be appointed under sub-section (3) of section 18 to assist him :

Provided that the Commissioner shall not entertain any such application for revision if the assessee filing the same having a remedy by way of appeal under section 25 or section 26 did not avail of such remedy or the application is not filed within the prescribed period.

(2) If the Commissioner proposes to reject an application for revision under the foregoing provision, he shall record the reasons for such rejection.

(3) Any order made under this sub-section by the Commissioner shall be final.

(4) Any person likely to be affected prejudicially by any order made under this section shall be given a reasonable opportunity of being heard before such order is made :

Provided that an order passed on revision by the Commissioner declining to interfere with the original order which is sought to be revised, shall not be deemed to be an order prejudicial to the applicant.”

Amendment of section 29, Orissa Act 24 of 1947.

11. In section 29 of the said Act—

(a) for sub-section (2) the following sub-section shall be substituted, namely :—

“(2) Within sixty days from the making of any order by the Agricultural Income-tax Tribunal or the Additional Agricultural Income-tax Tribunal as the case may be under section 26 affecting any liability of any assessee to pay tax under this Act, such assessee or as the case may be the State Government may, by application in writing accompanied, when the application is made by any person other than the State Government, with a fee of one hundred rupees, require the Agricultural Income-tax Tribunal or the Additional Agricultural Income-tax Tribunal as the case may be to refer to the High Court any question of law arising out of such order and except in cases covered under sub-section (3) the Agricultural Income-tax Tribunal or the Additional Agricultural Income-tax Tribunal as the case may be may within ninety days of the receipt of such application, draw up a statement of the case and refer it to the High Court :

Provided that, if the Tribunal rejects the application on the ground that it is time-barred or otherwise incompetent, or if in exercise of its power under sub-section (3) the Tribunal refuses to state the case, the assessee may, within thirty days from the date on which he receives notice of the order passed by the Tribunal withdraw his application, and if he does so the fee paid shall be refunded”.

A amendment
of section
33, Orissa
Act 24 of
1947.

12. In section 33 of the said Act—

(a) for the words “members of the Tribunal” wherever they occur the words “Agricultural Income-tax Tribunal or the Additional Agricultural Income-tax Tribunal as the case may be” shall be substituted ; and

(b) sub-section (5) shall be omitted.

Savings

13. (1) Notwithstanding anything contained in the said Act as amended by this Act—

(i) any matter pending in revision or appeal or any application for reference before the Board of Revenue under the said Act or the rules made thereunder on the date of commencement of this Act or any reference arising out of any order passed in such revision shall be heard and dealt with by the Board of Revenue as if this Act had not been passed ;

(ii) any matter pending in revision under the said Act or the rules made thereunder before the Collector of Agricultural Income-tax on the date of commencement of this Act shall stand transferred to the Agricultural Income-tax Tribunal as the case may be for disposal in accordance with the provisions of section 26 of the said Act as amended by this Act.

(2) If any doubt or difficulty arises in giving effect to the provisions of this Act, particularly in relation to the ascertainment of specification of the corresponding agricultural income-tax authorities or to the assignment or discharge of their respective duties and responsibilities under the provisions of the said Act before or after the commencement of this Act, the State Government may, as occasion may require, by order do anything not inconsistent with the provisions of the said Act as amended by this Act or the rules made thereunder which appear to them necessary to remove the doubt or difficulty.

Amendment
of section 50,
Orissa Act
24 of 1957.

14. In sub-section (2) of section 50 of the said Act—

(i) in clause (c) for the figure and brackets “(2)” the figure and brackets “(3)” shall be substituted ; and

(ii) after clause (n) the following new clause shall be inserted, namely :—

“(o) disposal of business by the Agricultural Income-tax tribunal and one Additional Agricultural Income-Tax tribunal”.